

INTERNATIONAL
CONSUMER PRODUCT SAFETY
PROGRAM PLAN
-CHINA- *

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**OFFICE OF INTERNATIONAL PROGRAMS AND
INTERGOVERNMENTAL AFFAIRS
U.S. CONSUMER PRODUCT SAFETY COMMISSION
JOSEPH P. MOHOROVIC, DIRECTOR**

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EXECUTIVE SUMMARY

The People's Republic of China is the largest source of consumer products imported into the United States. It is also the largest foreign source for United States Consumer Product Safety Commission (CPSC) directed product recalls and port seizures. Recent studies by the CPSC staff compare the size and scope of unsafe imported consumer products by country from around the world. Consumer products from China lead the list. In order to improve the safety of consumer products imported from China, the CPSC staff proposes a number of specific activities to help identify and improve products that do not meet our safety standards.

Ten specific activities are suggested:

1. **China – U.S. Comparative Standards Study:** The Commission staff plans to identify and compare the Chinese and U.S. product standards applicable to imported consumer products that have been recalled and/or seized. The results from this study will help determine differences between U.S. and Chinese standards and what might be done to address those differences.
2. **The Importance of Using U.S. Mandatory and Voluntary Standards:** Both mandatory rules and U.S. national consensus voluntary safety standards play essential roles in protecting the public. The CPSC staff plans to stress to appropriate Chinese government officials, manufacturers, trade associations, and importers the need to comply with both types of safety standards.
3. **AQSIQ Staff & CPSC Staff Cooperation:** The CPSC and its counterpart in China, the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) have signed a Memorandum of Understanding (MOU) to cooperate in protecting the health and safety of consumers. Specific areas of cooperation include exchange of scientific, technical, and regulatory information; consulting on consumer product safety issues; and participating in training laboratory and inspection personnel. The CPSC staff plans to work with AQSIQ to develop a *“Plan of Action on Cooperation”* to implement the provisions of the MOU.
4. **Testing and Certification Program:** The CPSC staff plans to work with Chinese government officials to analyze the testing and certification methodology of Chinese consumer products destined for the United States. The CPSC staff expects to provide recommendations to ensure greater compliance to safety standards essential for distribution in the U.S. market.
5. **Pilot Compliance Program:** The CPSC staff plans to seek Chinese AQSIQ staff participation in a pilot project to monitor the use of U.S. voluntary and mandatory standards by Chinese manufacturers for three to five specific types of consumer products destined for the United States. The goal is to obtain experience that can be used later to evaluate the effectiveness of China's conformity assessment program for consumer products being imported into the United States.

- 6. Professional Exchange Program:** The CPSC staff believes it would be mutually beneficial to help train Chinese personnel involved in consumer product standards and conformity assessment matters. The staff plans to help implement a professional exchange program whereby Chinese professionals would be trained to ensure that Chinese products comply with required U.S. product safety regulations and standards.
- 7. Open Dialogue on Chinese Imports:** The CPSC staff plans to conduct a series of open dialogues to provide information and ideas on how consumer product safety can be maintained and improved for consumer products manufactured in China and sent to the United States. The first task will be to review and discuss potential changes to the activities proposed in this *INTERNATIONAL CONSUMER PRODUCT SAFETY PROGRAM PLAN – CHINA*.
- 8. Biennial Sino-American Consumer Product Safety Summit:** A Biennial Sino-American Consumer Product Safety Summit will serve as a means for Chinese and American government officials to review their progress in implementing the activities of mutual interest. It also provides an opportunity to discuss consumer product safety issues of mutual interest to China and the United States. The first summit is tentatively scheduled to take place in Beijing in the late summer or fall of 2005. During the Summit, CPSC staff and AQSIQ will begin to develop the proposed *“Plan of Action on Cooperation”*.
- 9. Horizontal Efforts for Implementation:** It will be necessary for CPSC staff to have close working relationships with national and local Chinese government officials as well as Chinese manufacturers and trade associations. The CPSC staff plans to establish and cultivate these relationships.
- 10. Interagency Activities:** Coordinating with other U.S. Government entities can improve the safety of consumer products imported from China. The CPSC staff is currently or plans to work with the following U.S. Government entities: U.S. Customs and Border Patrol, National Institute of Standards and Technology (NIST), International Trade Administration (ITA), China Standards Attaché in Beijing, U.S. Embassy in Beijing, Office of the U.S. Trade Representative (USTR), and U.S. Department of State (State), among others.

CPSC staff believes that the compliance of consumer products to be imported into the United States from China with U.S. safety regulations and standards can be improved. CPSC staff has developed this Program Plan to take advantage of opportunities to improve consumer product safety. It is a work in progress and is being distributed for review and comment. It will be modified based on evaluation of the comments received, consultation with our counterparts in the Chinese government, and experience gained after implementing appropriate suggested activities.

INTRODUCTION

CPSC is an independent Federal agency of the United States government whose mission is to protect the public from unreasonable risks of injury associated with consumer products. China is the number one source of imported consumer products under the jurisdiction of the CPSC. The dollar value of consumer-product related imports from China is over three times the value of such imports from any other country. China's relative importance compared to other countries as a source of consumer products for the U.S. market is growing. Imported Chinese manufactured consumer products under CPSC's jurisdiction represent the largest foreign source of CPSC directed product recalls and seizures.

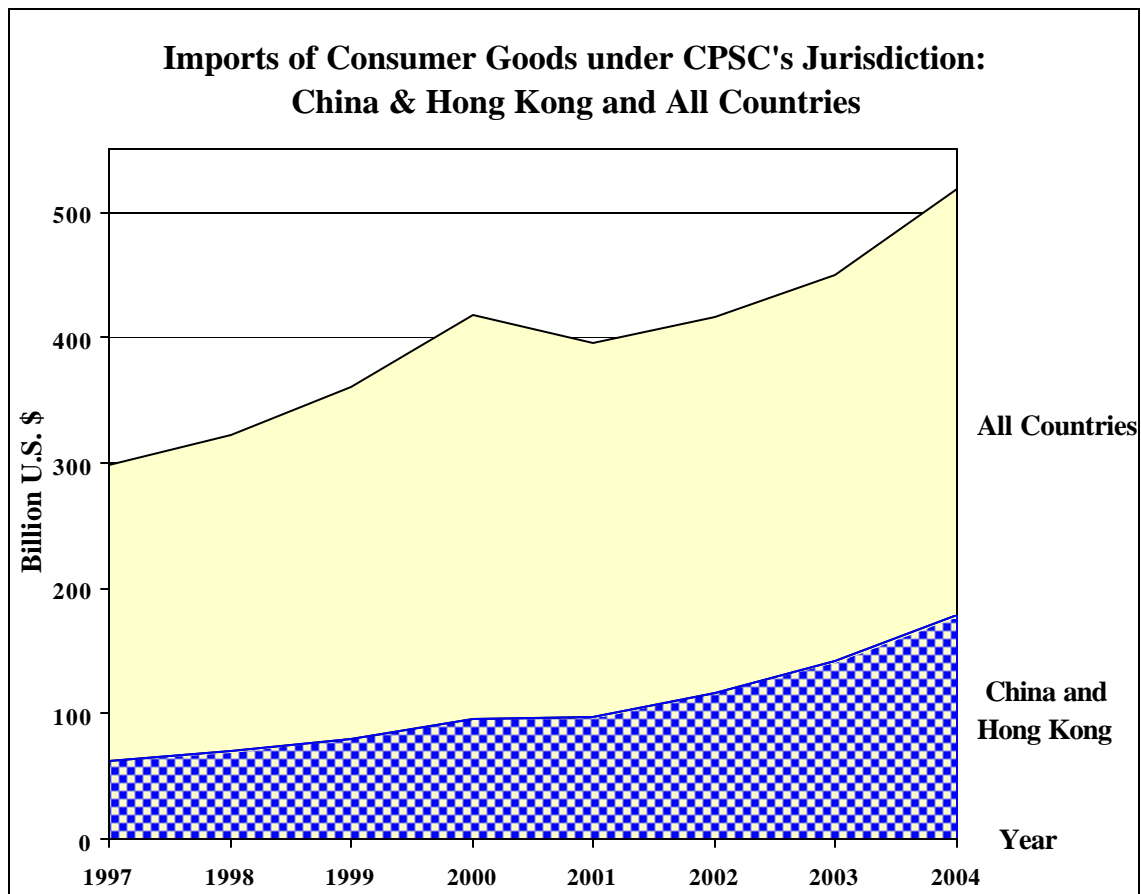
To improve product safety, the CPSC staff developed this draft *INTERNATIONAL CONSUMER PRODUCT SAFETY PROGRAM PLAN-CHINA*. This Program Plan provides information that shows the importance of U.S. imports of consumer products from China and suggests ten specific ways to maintain and improve consumer product safety. This draft is being broadly distributed for review and comment. It will be modified based on an evaluation of the comments received, consultations with our counterparts in the Chinese government, and experience gained after implementing appropriate suggestions. The list of acronyms used throughout this document is found in Appendix A.

THE IMPORTANCE OF CHINESE CONSUMER PRODUCTS IMPORTED INTO THE UNITED STATES

China is an extremely important source of consumer products in the United States. A recent report by the CPSC staff (Appendix B) showed that since 1997 annual imports from China and Hong Kong (hereinafter referred to as China) of consumer goods under CPSC's jurisdiction, significantly exceeded U.S. imports of such products from any other country. The report showed that:

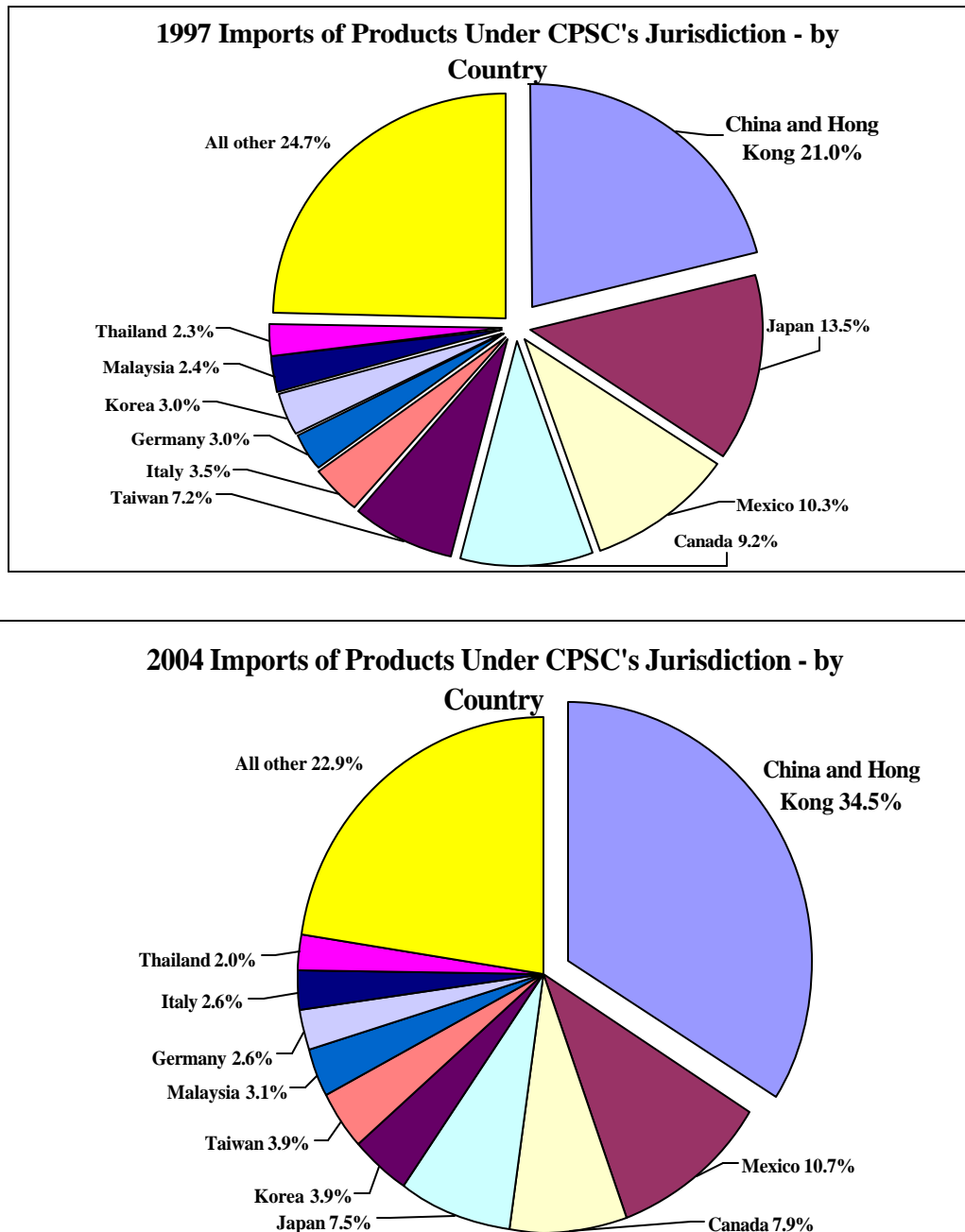
- The value of U.S. imports of consumer goods under CPSC's jurisdiction from all countries was \$519 billion in 2004. The value of U.S. imports of consumer goods from China was \$179 billion in 2004. These data are shown in Figure 1 below. U.S. imports from China represented a little over one-third of total U.S. consumer product imports in 2004.

Figure 1. Imports of Consumer Goods under CPSC's Jurisdiction.

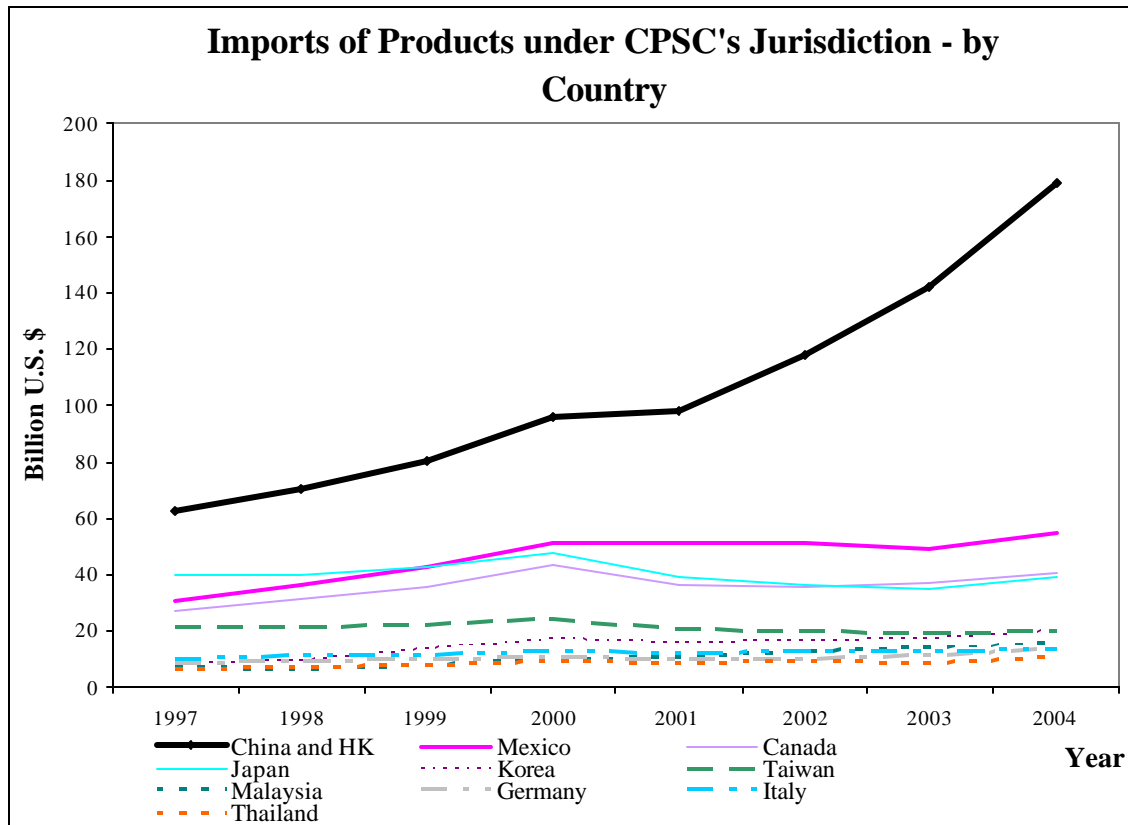


- The share of U.S. imports from China of all consumer products under CPSC's jurisdiction increased from 21% in 1997 to 34.5% in 2004. These data are shown in Figure 2. This represents an increase of 64%.

Figure 2. 1997 and 2004 Imports of Products under CPSC's Jurisdiction.



- The value of U.S. imports from China increased from \$62.6 billion in 1997 to \$179 billion in 2004. This represents an increase of 186% over an eight-year period. These data are shown in Figure 3.

Figure 3. Imports of Products under CPSC's Jurisdiction by Country.

- Of the top 10 countries from which consumer goods under CPSC's jurisdiction are imported, China has experienced the fastest growth rate in value of imports.

RECALLS & PORT SEIZURES OF IMPORTED CONSUMER PRODUCTS FROM CHINA

Not only is China the leading source of consumer products under CPSC's jurisdiction that are imported into the United States, China is also the leading foreign source of consumer goods for which the CPSC has directed product recalls or for which there have been seizures at ports of entry. A recent CPSC staff study (Appendix C) of CPSC recall and seizure data for consumer products shows that:

- Relative to recalls of all imported consumer goods under CPSC jurisdiction, the share of recalls from China increased from 41% in 1999 to 63% in 2004. These data are shown in Figure 4 below.

Figure 4. CPSC Recalls of Imported Goods over Time.



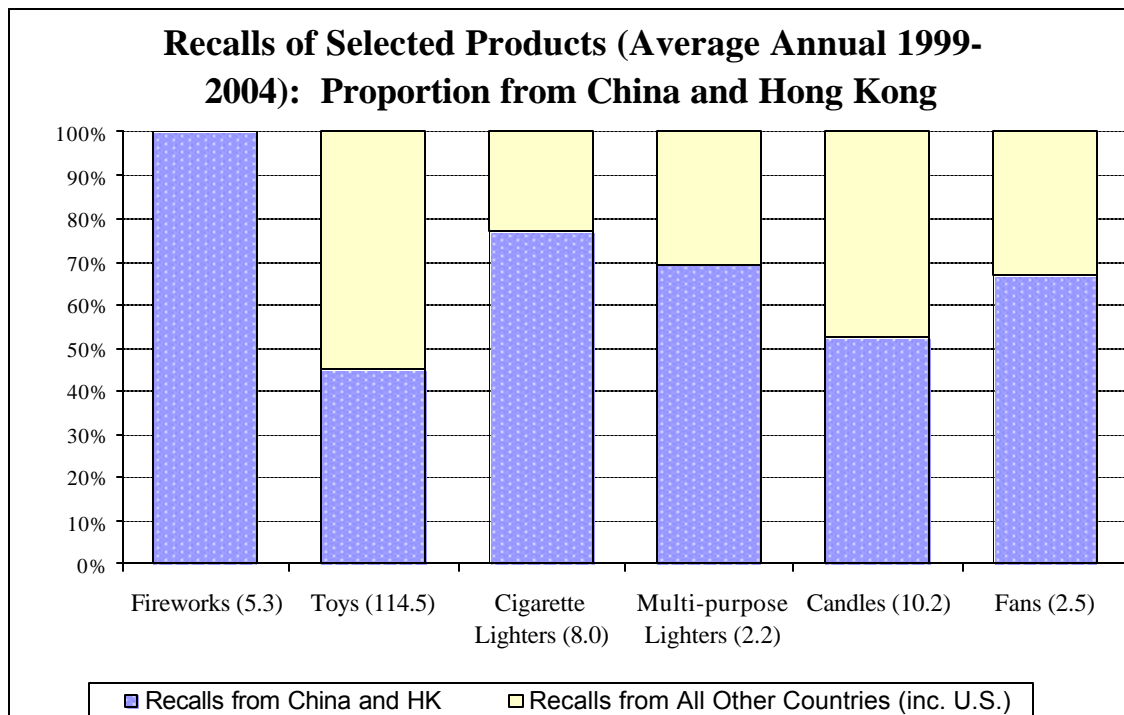
- Relative to all recalls of consumer goods (i.e., recalls of domestically produced and imported goods), the share of recalls from China increased from 27% in 1999 to 44% in 2004, shown below in Figure 5.

Figure 5. CPSC Recalls of Domestic and Imported Goods over Time.



- Average annual recalls of fireworks, cigarette lighters, multi-purpose lighters, candles, and fans produced in China each represent more than 50% of all recalls for these products, including those domestically produced. Average annual recalls for toys produced in China represent more than 40 percent of all recalls of those products, including those domestically produced. These data are shown in Figure 6.

Figure 6. Recalls of Selected Products.



OPPORTUNITIES FOR IMPROVING CONSUMER PRODUCT SAFETY

Ten areas to improve the safety of recalled and seized products from China have been identified for further consideration at this time.

1. China – U.S. Comparative Standards Study

The Commission staff plans to identify the Chinese and U.S. product safety standards applicable to imported consumer products from China for which there have been product recalls. The objective of this study is to determine whether new or revised safety standards are needed or whether greater understanding of the U.S. standard making system is needed in China.

The initial phase of the comparative study involved the gathering of relevant data for recalled/seized products. The CPSC staff has developed a list of recalled Chinese consumer product imports, the Consumer Product Safety Standards Matrix (Matrix), shown in Appendix D. The list encompasses products imported from China that failed to meet a CPSC mandatory standard from October 1997 to April 2005 as well as Chinese imports reported by companies under Section 15(b) of the Consumer Product Safety Act (CPSA) from October 1980 to April 2005. All recalled products in the Matrix include information on the total number of recalled units, the total number of cases, and the potential hazard the products represent.

The applicable U.S. standards (i.e., voluntary U.S. consensus standard or CPSC mandatory safety rule) addressing the safety of each of the products has been identified by the CPSC staff and matched with the products on the list of recalled Chinese imports. The product categories are matched with their corresponding Harmonized Tariff Schedule (HTS) codes.¹ This will help determine if any mandatory Chinese standard is applicable and thus shows which product categories are required to bear Chinese certification marks. Finally, once the applicable Chinese standard for each product category has been identified, it will be displayed with the corresponding U.S. standard. The Matrix is necessary for the second phase of the study.

¹ The Harmonized Tariff Schedule of the United States (HTS) was enacted by Congress and made effective on January 1, 1989, replacing the former Tariff Schedules of the United States. The HTS comprises a hierarchical structure for describing all goods in trade for duty, quota, and statistical purposes. This structure is based upon the international Harmonized Commodity Description and Coding System (HS), administered by the World Customs Organization in Brussels. Tariff Information Center. Office of the U.S. Trade Representative. <<http://www.usitc.gov/tata/>> (accessed April 4, 2005).

The following is an example of a recalled product entry within the Matrix:

Product Description	Hazard	Number of Cases	Number of Units Recalled	HTS	Standard Number	Standard Title	China Standard/Mark
A/C Adapters	Electrocution, Electric Shock, Fire	8	720,615	8517.9	UL 1310	Class 2 Power Units	

It is important to note that the Matrix will undergo a risk-based review to determine product priorities for further study. It is anticipated that products such as electrical products, fireworks, cigarette lighters, toys, mattresses, and upholstered furniture will be among those with a higher priority. The Matrix will also include CPSC staff analysis of the data received from one or more major U.S. retailers on certain Chinese imported products.

The CPSC staff plans to enter into a contract to complete the second phase of the study that will focus on the analysis of the data. The goal is to compare the safety provisions of the comparable U.S. and Chinese standards for each recalled product category. This will allow the Commission staff to identify areas in which safety provisions of standards used by the Chinese may be different from safety standards used by the CPSC staff and may leave products at the risk of recall in the United States.

Another important objective of this study is to emphasize to Chinese government officials and Chinese manufacturers the need for Chinese products bound for the U.S. to be at least equivalent to the level of consumer product safety found in standards used by the CPSC. More specifically, the results from this comparison study will enable CPSC staff to determine if it is appropriate to advocate enhanced consumer product safety standards and safety standards' provisions with the Standards Administration of China (SAC), a division of AQSIQ, which is responsible for establishing and overseeing Chinese national standards. The results of the study will provide the basis for recommending changes to the safety specifications of China's standards, so as to provide safe products that are compliant with U.S. laws and regulations and voluntary national consensus safety standards used by the CPSC staff.

2. Understanding the Importance of U.S. Mandatory and Voluntary Standards When Exporting Consumer Products to the United States

Both mandatory rules and national consensus voluntary safety standards play essential roles in protecting the U.S. public. It is very important that the governments and manufacturers of all countries planning on exporting consumer products to the U.S. understand the U.S. standards system and the need to meet both mandatory and voluntary safety standards.

The CPSA requires that the CPSC rely upon voluntary consumer product safety standards rather than promulgate mandatory consumer product safety standards whenever: (1) compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed, and (2) it is likely that there will be substantial compliance with such voluntary standards.

The CPSA states that:

“(a) Any consumer product offered for importation into the customs territory of the United States shall be refused admission into such customs territory if such product—
 (1) fails to comply with an applicable consumer product safety rule ...
 (4) has a product defect which constitutes a substantial product hazard.” (15 U.S.C. §2066(a)).

The CPSA defines the term ‘substantial product hazard’ as follows:

“For purposes of this section, the term ‘substantial product hazard’ means – ...a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.” (15 U.S.C. §2064(a)).

In some cases, failure to comply with the safety provisions of a non-government voluntary standard will result in a product being found defective and subsequently determined to be a substantial product hazard. Simply stated, to decrease the likelihood of Chinese manufacturers having to address regulatory issues with the U.S. Government (U.S. Customs and Border Protection and the CPSC), Chinese manufacturers should comply with CPSC regulations and U.S. voluntary safety standards.

The CPSC staff realizes that certain language used in the CPSA may be confusing and that the language barrier between China and the United States may compound an already difficult concept. According to Webster’s Dictionary, the word voluntary “implies freedom and spontaneity of choice or action without external compulsion.” So, to the Chinese there

may be no imperative to comply with “voluntary” standards. However, in some cases, failure to comply with a private-sector U.S. voluntary safety standard makes a product defective and creates a substantial product hazard.

It is important that the Chinese understand that CPSC mandatory standards generally can only address unreasonable risks of injury associated with a consumer product, but that voluntary standards can address any level of risk of injury. The Commission staff believes that a proper combination of voluntary and mandatory standards can do more to increase product safety than either mandatory or voluntary standards alone. Moreover, the Commission staff believes that by encouraging the development and use of voluntary safety standards, the level of product safety in the marketplace can be increased with a relatively small expenditure of the Commission’s resources, particularly when compared to the resources necessary to issue mandatory safety standards for consumer products.

The work of the U.S. private sector standards developers is inextricably connected to the work of government regulatory bodies. The CPSC staff is both a user of voluntary standards and a participant in the voluntary standards development process. The CPSC staff dedicates significant attention to the development of consumer product safety standards – both voluntary and mandatory. During 2005, the CPSC staff is providing technical support to the development of 67 national consensus voluntary standards. From 1990 through 2004, the Commission staff has worked cooperatively with interested parties to complete or revise 283 voluntary consumer product safety standards while issuing 35 mandatory rules, an eight-to-one ratio of voluntary to mandatory standards. The process for involvement of U.S. Government entities in the development of voluntary standards is articulated in a circular from the U.S. Office of Management and Budget (OMB) of the U.S. Government (OMB A-119 [rev]).

In the U.S. private sector, a draft of the U.S. Standards Strategy (formerly called the National Standards Strategy) is expected to be approved during the Summer of 2005. The CPSC staff believes in the following core principles for the development of voluntary consumer product safety standards as detailed in U. S. Standards Strategy:

- Decisions are reached through **consensus** among those affected.
- Participation is **open** to all affected interests.
- **Balance** is maintained among competing interests.
- The process is **transparent** – information on the process and progress is directly available.
- **Due process** assures that all views will be considered and that appeals are possible.
- The process is **flexible**, allowing the use of different methodologies to meet the needs of different technology and product sectors.
- The process is **timely**; purely administrative matters do not slow down the work.
- Standards activities are **coherent**, avoiding overlap or conflict.
- Standards are **data-driven**, based on sound science.

The Chinese government has indicated that one of its strategic goals to be achieved by 2010 is the formation of a national technical standards system that will put the overall

technological level of Chinese standards on a par with that of international standards for key areas. By 2020, China intends to upgrade its international standards involvement to an advanced level, putting China high in the ranking of international standardization contributors. During this process, the CPSC staff will advocate the development and use of consumer product safety standards which provide at least the current level of consumer product safety found in the United States and will encourage an enhanced level of consumer product safety where reasonable. The staff believes that this can be achieved using the core principles listed above. In this process it is anticipated that the CPSC staff will be working with the SAC, which establishes and oversees Chinese national standards. SAC's role involves setting the annual standards agenda, coordinating the drafting of technical standards with the various technical committees, and representing China at international standards organizations.

While the United States continues to work toward the protection and improvement of safety by exporting its principles and practices internationally, the European Union (EU) is aggressively and successfully promoting its own technology and practices to other nations around the world. The EU accomplishes this through its own standards processes and through national representation and influence on the international standards activities of the International Organization for Standardization (ISO), International Electrotechnical Commission (IEC) and International Telecommunications Union (ITU). China has indicated that it will consider market relevance when selecting standards for its needs.

Some ISO and IEC standards may not reflect U.S. safety needs or practices. The exclusion of technology supporting U.S. safety needs from global standards can be a significant detriment to the level of consumer product safety in the U.S. and elsewhere. When U.S. safety standards are not accepted elsewhere, U.S. safety may be threatened by imported products. Thus, the more the CPSC staff can emphasize and persuade its regulatory counterparts to use U.S. standards:

1. the fewer WTO conflicts may take place,
2. the fewer U.S. regulatory actions may be required against imports of consumer products, and
3. the safer consumers may be from certain imported products.

In order to convey the information above to Chinese government officials and Chinese manufacturers who wish to export their consumer products to the United States, the CPSC staff has developed a presentation that explains U.S. reliance on "voluntary" safety standards and the connection between non-compliance with voluntary safety standards and the CPSC staff determination of a "substantial product hazard." This educational presentation highlights the sections of the CPSA, Federal Hazardous Substances Act (FHSA), Flammable Fabrics Act (FFA), and Poison Prevention Packaging Act (PPPA) that address the regulatory connection, illustrates how to comply with CPSC's laws and regulations, and how Chinese manufacturers can avoid CPSC regulatory issues. (This presentation is shown at Appendix E.)

In addition to this educational presentation, the CPSC staff plans to participate in the 2005 U.S.-China Standards and Conformity Assessment Workshop during the week of

August 8-12, 2005. The workshop is the latest in a series of dialogues between the U.S. Department of Commerce (Commerce) and the Chinese (AQSIQ) standards and regulatory officials. The purpose of the workshop is to address issues of mutual interest and concern in standards and conformity assessment procedures. The series was initiated in 1998 and is jointly organized by the Commerce's NIST and AQSIQ.

3. AQSIQ & CPSC Staff Cooperation

On April 21, 2004, AQSIQ and CPSC signed a MOU intended to protect the health and safety of consumers. Both participants agreed to cooperate in areas that are within the scope of their responsibilities and in the scope of products of mutual concern.

AQSIQ is the government agency within the People's Republic of China responsible for the supervision and administration of China's import and export commodity inspection, certification and standardization in accordance with the laws and regulations of China.

AQSIQ combined the standards and certification systems for foreign and domestic goods to ensure that China was meeting its World Trade Organization (WTO) obligations. After being established in April 2001, AQSIQ quickly established the SAC and the China National Regulatory Commission for Certification and Accreditation (CNCA). AQSIQ supervises the two bodies' budgets but the State Council oversees their policy-related activities. SAC establishes and oversees national standards. This role involves setting the annual standards agenda, coordinating the drafting of technical standards with the various technical committees, and representing China at international standards organizations. CNCA implements the unified China Compulsory Certification (CCC) program, which is designed to test product safety and conformity to technical standards.

The AQSIQ – CPSC MOU covers six specific areas of cooperation:

1. Exchanging of scientific, technical, and regulatory information, to help ensure the quality, safety, and proper labeling of certain specified consumer products;
2. Recognizing the list of consumer products for cooperation;
3. Exchanging information on emerging issues;
4. Consulting on consumer product safety problems relating to consumer products included in the MOU that are manufactured in one of the countries and sold in the other;
5. Considering the inspection results obtained by the laboratories authorized by the other country; and
6. Participating in training of laboratory and inspection personnel of the other country, as mutually agreed in advance.

The CPSC staff plans to work cooperatively with AQSIQ personnel to develop the *Plan of Action on Cooperation* that will cover the activities of the MOU. The *Plan of Action on Cooperation* outlines the scope and details of their cooperation for each activity. (A copy of the MOU is attached at Appendix F.)

4. Testing and Certification Program

The CPSC staff is working to establish an approach that would effectively encourage a robust conformity assessment program for Chinese manufactured consumer products that are being imported into the United States and fall under CPSC's jurisdiction. (Conformity assessment is defined as "any activity concerned with determining directly or indirectly that relevant requirements are fulfilled.")²

This approach acknowledges the need for a testing and certification program to accompany manufacturing to applicable standards – both national voluntary consensus standards and CPSC mandatory standards. Furthermore, it recognizes that Chinese manufacturers are already regulated by a conformity assessment system. CNCA applies the same standards, technical regulations and conformity assessment procedures to both imported and domestic products.³

USTR stated on its *2005 National Trade Estimate Report on Foreign Trade Barriers – China* that:

*"...China devoted significant energy in reforming its standards and testing and certification regimes prior to its WTO entry. In April 2001, China merged its domestic standards and conformity assessment agency and entry-exit inspection and quarantine agency into a new organization AQSIQ [Administration for Quality Supervision Inspection & Quarantine]."*⁴

China possesses a compulsory product certification system under which 132 categories of products are required to be certified for compliance with China's national standards, the Guo Biao Standards (referred to as "GB" Standards). Once certified, the products on this compulsory list bear the system's China Compulsory Certification, namely, the CCC mark. A significant number of the products required to comply with GB standards and bear the CCC mark are consumer products under CPSC's jurisdiction.

Type testing (testing of samples that represent production for the purpose of determining conformity) must occur at a CNCA accredited laboratory. The required certification, including annual factory surveillance, must be conducted by a CNCA accredited certifier. At this time, only wholly-owned Chinese organizations can be accredited.

² *ISO/IEC Guide 2:2004*. International Standards Organization. <<http://www.iso.org>> (accessed April 4, 2005).

³ *2005 National Trade Estimate Report on Foreign Trade Barriers*. Office of the United States Trade Representative <http://www.ustr.gov/assets/Document_Library/Reports_Publications/2005/2005_NTE_Report/asset_upload_file469_7460.pdf> (accessed April 11, 2005).

⁴ *2005 National Trade Estimate Report on Foreign Trade Barriers*. Office of the United States Trade Representative <http://www.ustr.gov/assets/Document_Library/Reports_Publications/2005/2005_NTE_Report/asset_upload_file469_7460.pdf> (accessed April 4, 2005).

The CPSC staff plans to encourage Chinese government officials to provide for a robust conformity assessment program for Chinese consumer products manufactured for export to the United States.

5. Pilot Certification Program

One of the areas of cooperation highlighted in the MOU involves the exchange of scientific, technical, and regulatory information to help ensure the safety of consumer products exported from China into the United States. CPSC staff plans to seek AQSIQ and other applicable Chinese government entities' cooperation in a pilot project to monitor specific consumer products' compliance with U.S. voluntary and mandatory standards. Initially, three to five product categories will be selected (e.g., electrical household appliances, toys, and fireworks). Products will be tested in China for conformity assessment and identified as compliant or non-compliant with U.S. standards.

Samples of products that have been tested will be sent to CPSC staff to evaluate whether testing done in the U.S. matches testing performed in China, so that the products would meet the required safety standards. Private testing laboratories and voluntary standards groups will be invited to participate in the program. The goal of developing a Pilot Compliance Project is to obtain feedback and experience that can be used later to confirm the effectiveness of China's conformity assessment program for consumer product safety. In addition, CPSC staff will be able to promote better understanding and application of CPSC mandatory standards and related U.S. national consensus voluntary standards.

6. Professional Exchange Program

Another area of cooperation highlighted in the MOU between CPSC and AQSIQ is the intent to participate in the training of laboratory and inspection personnel via a professional exchange program:

“In order to protect the health and safety of consumers, the Participants intend, on the basis of applicable laws and regulations of each Participant’s country, to cooperate in areas that are within their scope of responsibilities of both Participants and in the scope of consumer products of mutual concern. This includes: 1. Exchange of scientific, technical, and regulatory information, to help ensure the quality, safety, and proper labeling of consumer products...” (CPSC-AQSIQ MOU)

The CPSC staff would like to assist Chinese professionals to better understand U.S. consumer product safety standards and conformity assessment matters. The purpose would be to facilitate the use of U.S. standards by the Chinese and help develop a more robust conformity assessment program in China. It is believed that a professional exchange program can be very helpful since Chinese manufacturers and government officials may not always be familiar with the consumer product standards used in the United States, even though Chinese manufacturers are exporting a significant amount of consumer products to the United States.

Creating a professional exchange program where professionals are trained to ensure that Chinese products comply with required product safety regulations and standards would be mutually beneficial. It is expected that Chinese professionals would visit CPSC to learn about specific consumer product safety rules from U.S. professionals. Chinese professionals could absorb enough knowledge of the applicable technical regulations and conformity assessment procedures to create a similar system that can be implemented within China.

Professionals in this exchange program would include, but not be limited to, engineers and scientists, laboratory personnel, human factors specialists, and lawyers. To maximize the effectiveness of this program, it would be highly preferred for professionals proficient in both the English and Chinese languages to participate in the program. CPSC staff would be expected to travel to China to consult with government officials in key consumer product safety areas.

In addition, arrangements with testing and certification laboratories located in the United States and China would be made with the expectation that they would agree to host Chinese professionals for training as well. Hands-on training would allow Chinese professionals to increase their understanding of U.S. standards and testing methodologies, procedures and practices.

7. Open Dialogue on Chinese Imports

The primary goal of the initial Open Dialogue on Chinese Imports is to provide information and ideas for how consumer product safety in the United States can be maintained and improved for consumer products manufactured in China. The Dialogue will provide a sounding board for the CPSC staff's Program Plan. It can help the CPSC staff gain a better understanding of the realities surrounding China's export policies and practices. It is hoped that this Dialogue will provide insight into the development and practicality of the planned activities with Chinese government officials and manufacturers, which will increase the potential for successful implementation of the Program Plan.

The CPSC staff welcomes the opportunity for knowledgeable professionals and stakeholders to offer comments and information for CPSC staff's consideration. The CPSC staff realizes that a group of professionals who have a working knowledge of both CPSC's responsibilities and Chinese manufacturing practices is an important element to ensure results from the implementation of the proposed activities set forth in this Program Plan.

The Dialogue will be open to all interested parties and an invitation to join the Dialogue will be published on CPSC's public calendar. The CPSC staff anticipates that attendees will include both government and private sector professionals. The invitation will reach out to a broad cross-section of stakeholders and subject matter professionals, including, but not limited to, representatives from standards developing organizations, testing and certification laboratories, large retail and discount stores, trade associations, import associations, academia, and federal governmental agencies.

The Dialogue will be charged with examining and providing information on potential changes to this Program Plan. Further, the Dialogue will be asked to brainstorm and share information related to the AQSIQ-CPSC staff *Plan of Action on Cooperation*, as identified in the 2004 MOU, which will be developed subsequent to the meeting of the Dialogue. Participants will convene and engage in a coordinated dialogue acting as a sounding board for the CPSC staff, specifically the CPSC Office of International Programs and Intergovernmental Affairs, throughout the development and evolution of the *INTERNATIONAL CONSUMER PRODUCT SAFETY PROGRAM PLAN-CHINA*. This in turn, will support the future AQSIQ – CPSC *Plan of Action on Cooperation*.

8. Biennial Sino-American Consumer Product Safety Summit

Holding a Biennial Sino-American Consumer Product Safety Summit serves as a platform for reviewing implementation of the proposed activities presented in this Program Plan. It also provides an opportunity for Chinese and American government officials and other appropriate parties to discuss consumer product safety issues of mutual interest to China and the United States. The first Biennial Sino-American Consumer Product Safety Summit is scheduled to take place in 2005. It will focus on a proposed *Plan of Action on Cooperation* between AQSIQ and the CPSC as referenced in their MOU to protect the health and safety of consumers.

By involving the leaders of the respective Chinese and U.S. consumer product safety government agencies, the summit will provide the opportunity to focus on long-term challenges like Chinese manufacturers' compliance with both mandatory and voluntary U.S. standards.

Subsequent Sino-American Summits will build on accomplishments and collaborative activities. They seek to sustain and deepen the bilateral cooperation related to Chinese and U.S. consumer product safety.

*"President Bush has decided the United States and China should begin holding regular senior-level talks on a range of political, security and possibly economic issues, signifying both China's interest in the prestige of such sessions and the administration's efforts to come to grips with China's rising influence in Asia."*⁵

China's AQSIQ and the U.S. CPSC will engage in a "global dialogue" in working together to identify consumer product safety problems, their causes, and solutions. During these Biennial Safety Summits, CPSC and AQSIQ staff will discuss key issues surrounding product safety and focus on priority products and challenges. The summits will also provide the United States and China with solid information about the most effective means to address any current and potential consumer product safety issues that are of paramount importance to both countries.

⁵ Glenn Kessler. *U.S., China Agree To Regular Talks: Senior-Level Meetings to Focus on Politics, Security, Possibly Economics*. The Washington Post. Friday, April 8, 2005. Page A14.

9. Horizontal Implementation of Plans

Throughout the planning stages of drafting this Program Plan, CPSC staff identified the need for close working relationships with key government and private sector entities both in the United States and in China. With that goal in mind, the CPSC staff is working to strengthen its communication and liaison relationships with those who might help improve consumer product safety. The CPSC staff is encouraging the Chinese Embassy in the United States and the American Embassy in China to liaise with AQSIQ to assist the Commission in disseminating its message regarding consumer product safety standards. AQSIQ is a vital partner to communicate with Chinese manufacturers and ensure higher levels of compliance with safety rules and regulations.

Simultaneously, and cognizant of the fact that China's provinces are quite important and influential as well, the CPSC staff plans to identify Chinese provinces where the CPSC staff will take a more targeted approach to increasing Chinese manufacturers' use of U.S. standards for consumer products being imported into the United States from China. China's localization of economic activity and regional industry specialization (regional concentration in one or few industries) will allow CPSC staff to design a province-specific arrangement to work directly with provincial leaders. Engaging Chinese provinces in the effort for safer consumer products is an important element in reaching out to specific industry sectors that cover problematic imports.

A similar argument can be made for involving Chinese trade associations and chambers of commerce. Intermediary organizations like chambers of commerce and trade associations bear some unique characteristics. They act as social intermediaries and market intermediaries to the Chinese government. They are quite influential and very important for CPSC staff in helping to promote changes in Chinese manufacturing policies and practices to insure safer consumer products. Chinese trade associations and chambers of commerce are able to influence the government decision making process by bringing to the government's attention important issues related to industrial activities and developments. In addition, Chinese trade associations and chambers of commerce are effective industry-wide conduits of regulatory and other trade-related information.

10. Interagency Activities

Working together with other U.S. Government entities can increase the CPSC's effectiveness in improving the safety of consumer products imported from China. The CPSC staff works with the U.S. Customs and Border Protection to, among other things: establish uniformity in procedures for the sampling, screening, testing, detention, inspection during reconditioning, seizure, and/or denial of entry for imported goods from China subject to the laws administered by the CPSC. U.S. Customs and Border Protection notifies its officials at other ports of entry when the CPSC has identified unsafe consumer product imports from China at one U.S. port of entry. In recent years, designated CPSC employees have been allowed access to the U.S. Customs Automated Commercial System and the Automated Manifest System, which contain information on the name and address of the importer, consignee, shipper, manufacturer, HTS number(s), and quantity and value of consumer products under CPSC's jurisdiction that are being imported into the United States from China. It has been determined that the information contained in these systems facilitate the CPSC in fulfilling its statutory and regulatory duties and responsibilities, preventing the admission into the United States of illegal, noncompliant, or environmentally hazardous products.

The CPSC staff also works with several organizations at Commerce. NIST helps identify existing and proposed foreign consumer product safety standards for those products under CPSC's jurisdiction. NIST's National Center for Standards and Certification Information maintains a reference collection of standards and standards-related documents, including those of China. It serves as the U.S. inquiry point under the WTO agreement for standards and certification information. It responds to CPSC staff requests for standards and certification information relating to China. NIST also helps sponsor joint activities with Chinese government representatives and U.S. government officials, such as the 2005 U.S. - China Standards and Conformity Assessment Workshop.

The 2005 U.S.-China Standards and Conformity Assessment Workshop is the latest in a series of dialogues between the U.S. Government and Chinese standards and regulatory officials to address issues of mutual interest and concern in standards and conformity assessment procedures. This workshop is jointly organized by Commerce and AQSIQ. At the 2005 Workshop, the CPSC staff plans to advocate the use by Chinese manufacturers of both CPSC mandatory rules and also effective voluntary consumer product safety standards used in the United States.

Another Commerce group with which the CPSC coordinates is ITA. The CPSC staff serves on the Standards Working Group of the ITA Standards Liaison. The Standards Liaison works closely with U.S. Government entities to address standards issues, policies, and concerns in U.S. trade policy.

CPSC staff also works closely with the Standards Attachés of Commerce's Commercial Service. A new China Standards Attaché has been selected for posting to the U.S. Embassy in Beijing during the summer of 2005. The responsibilities of the Standards Attaché will include providing technical support on standards-related issues that might affect

U.S. government agencies such as the CPSC. The CPSC staff has coordinated successfully with Standards Attachés working in other regions and looks forward to coordinating activities with the new China Standards Attaché.

Finally, the CPSC staff plans to coordinate with the Commerce Trade Policy Staff Committee, Subcommittee on Standards and Technical Barriers to Trade as well as the Interagency Policy Subcommittee on Standards.

Coordination of CPSC staff with USTR has included participation on working groups addressing technical barriers to trade and consultation on CPSC's MOU with China's AQSIQ. Recently, the CPSC staff provided assistance to USTR on several consumer product issues under discussion between the USTR and Chinese government officials. Coordination between the USTR and CPSC is expected to continue as this Program Plan goes forward.

Coordination with State has included working with officials at the U.S. Embassy in Beijing and consultation with State's Washington offices on CPSC's MOU with AQSIQ and in other activities supporting this Program Plan.

CONCLUSION

There is a significant opportunity to improve consumer product safety in the United States by improving the safety of products imported into the U.S. from China. U.S. imports of Chinese consumer products substantially exceed imports of these types of products from any other country. United States imports of Chinese products account for most CPSC staff directed product recalls and seizures when compared with U.S. imports from other countries. The CPSC staff has proposed ten specific activities which it believes can help improve the safety of Chinese consumer products imported into the United States. Prior to implementing these activities, the CPSC staff is requesting input from stakeholders. It is anticipated that after receiving and analyzing this input, the planned activities will be modified as appropriate, and implementation will commence. The successful implementation of these activities will result in safer products being brought into the United States.

Appendix A

Acronyms

Acronyms

AQSIQ	General Administration of Quality Supervision, Inspection and Quarantine
CCC	China Compulsory Certification
CNCA	China National Regulatory Commission for Certification and Accreditation
CPSA	Consumer Product Safety Act
CPSC	Consumer Product Safety Commission
EU	European Union
FFA	Flammable Fabrics Act
FHSA	Federal Hazardous Substances Act
HK	Hong Kong
HTS	Harmonized Tariff Schedule
IEC	International Electrotechnical Commission
ISO	International Organization for Standardization
ITA	International Trade Administration
ITU	International Telecommunications Union
MOU	Memorandum of Understanding
NIST	National Institute of Standards and Technology
OMB	Office of Management and Budget
PPPA	Poison Prevention Packaging Act
SAC	Standards Administration of China
USTR	Office of the U.S. Trade Representative
WTO	World Trade Organization

Appendix B

Economic Data



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

DRAFT 5/25/05

Memorandum

Date: May 2, 2005

TO : Gregory Rodgers, Ph.D., AED, EC

THROUGH : Deborah V. Aiken, Ph.D., Senior Staff Coordinator, EC

FROM : Soumaya M. Tohamy, Ph.D.

SUBJECT : Imports of Consumer Goods from China and Hong Kong^{*}

The attached figures and tables highlight imports of consumer goods under the jurisdiction of CPSC from China and Hong Kong, relative to imports of consumer goods from other countries and their trend over time. Specifically:

- The value of imports of consumer goods under CPSC's jurisdiction from all countries was \$519 billion in 2004.¹ The value of imports of consumer goods from China and Hong Kong was \$179 billion in 2004. Imports from China and Hong Kong, therefore, represented a little over a third of total imports in 2004. (See Table 1.)
- The value of imports from China and Hong Kong has increased from \$62.6 billion in 1997 to \$179 billion in 2004. This represents an increase of one hundred and eighty six percent over an eight year period. (See Table 1.)
- The share of imports from China and Hong Kong of all of consumer products under CPSC's jurisdiction has increased from 21.0 percent in 1997 to 34.5 percent in 2004. This represents an increase of 64 percent. (See Table 1 and Figures 1, 2, 3, and 5.)
- Since 1997, annual imports from China and Hong Kong of consumer goods under CPSC's jurisdiction have exceeded imports from any other country. (See Table 2.)
- Of the top 10 countries from which consumer goods under CPSC's jurisdiction are imported, China and Hong Kong have experienced the fastest growth rate in value of imports. (See Figure 4.)

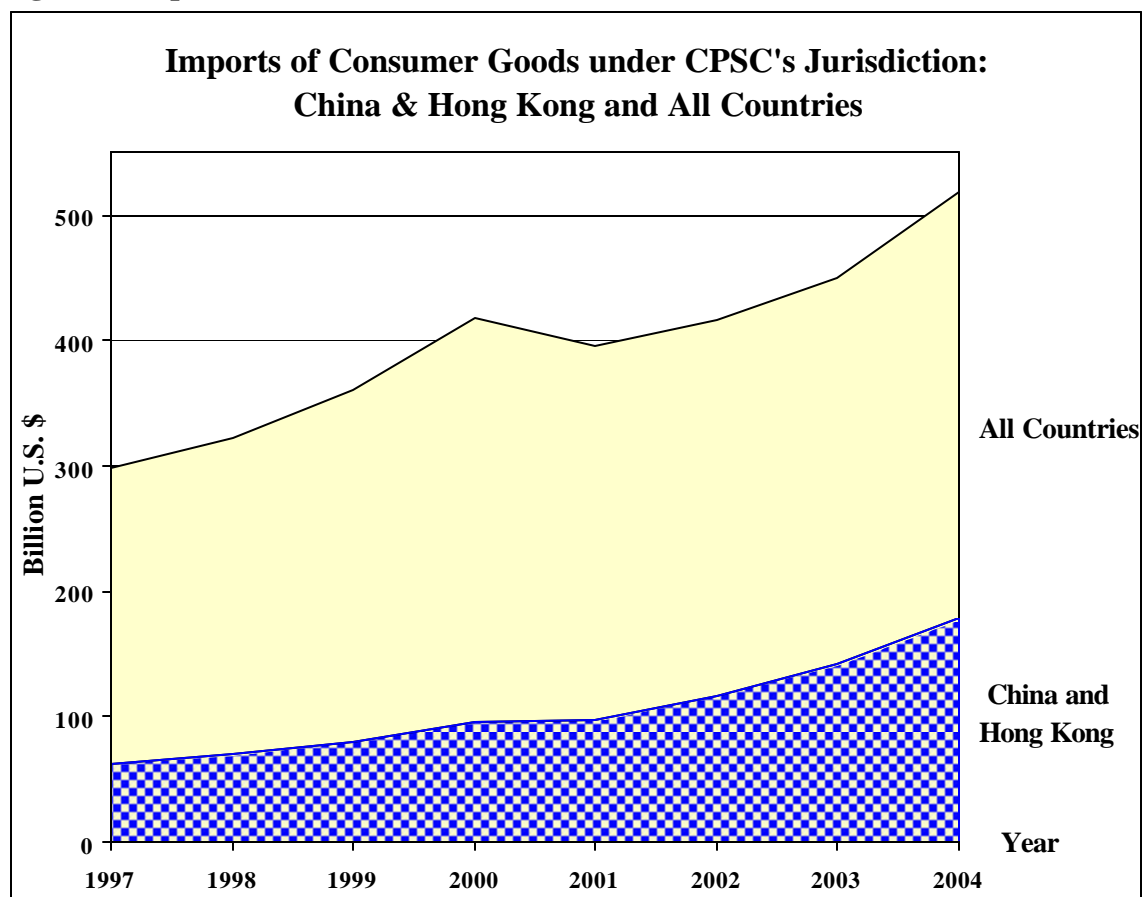
^{*}This document has been prepared by CPSC staff, has not been reviewed or approved by, and may not reflect the views of, the Commission.

¹ All dollar figures are nominal U.S. dollars.

Additionally, imports from China and Hong Kong were estimated as a proportion of U.S. domestic consumption of consumer goods. Specifically:

- Imports from China and Hong Kong represented 9.6 percent of domestic consumption of consumer goods in 2002. (See Table 3.)
- Imports from China and Hong Kong are estimated to have represented 13.0 percent of domestic consumption of consumer goods in 2004. This estimate was derived by projecting 2004 domestic shipments based on historical trends.² (See Table 3.)

² Domestic shipments for 2004 are estimated based on data for domestic shipments from Bureau of the Census. These data are collected every five years, with 2002 being the most recent.

Figure 1. Imports of Consumer Goods under CPSC's Jurisdiction.

Source: U.S. International Trade Commission statistics.

**Table 1. Imports of Consumer Goods under CPSC's Jurisdiction
(Billion U.S. dollars).**

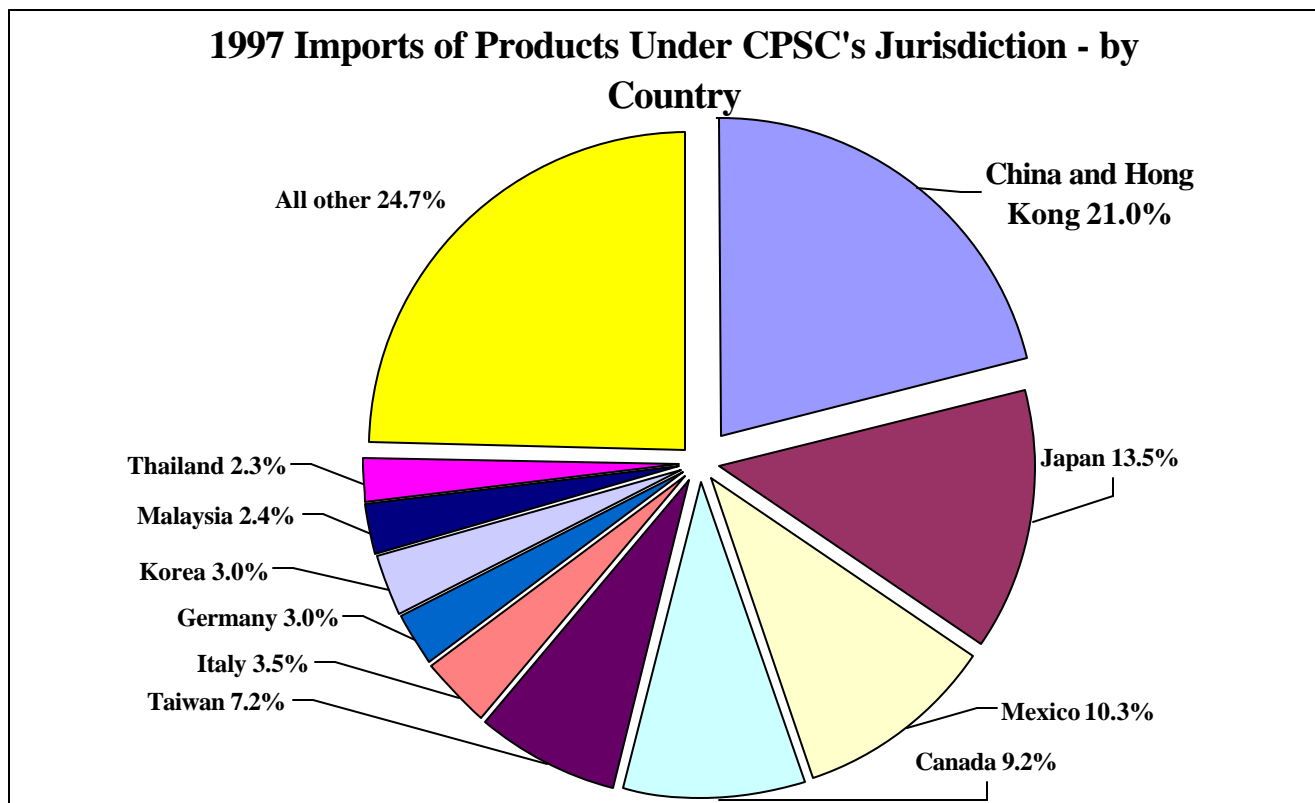
	China and Hong Kong (Billion U.S. \$)	All Countries (Billion U.S. \$)	Share of Imports from China and Hong Kong in Imports from All Countries (%)
1997	62.6	297.9	21.02%
1998	70.4	322.2	21.84%
1999	80.7	360.6	22.37%
2000	96.1	418.4	22.97%
2001	97.7	395.8	24.67%
2002	117.8	417.2	28.24%
2003	142.1	449.5	31.61%
2004	179.0	518.7	34.50%

Source: U.S. International Trade Commission statistics.

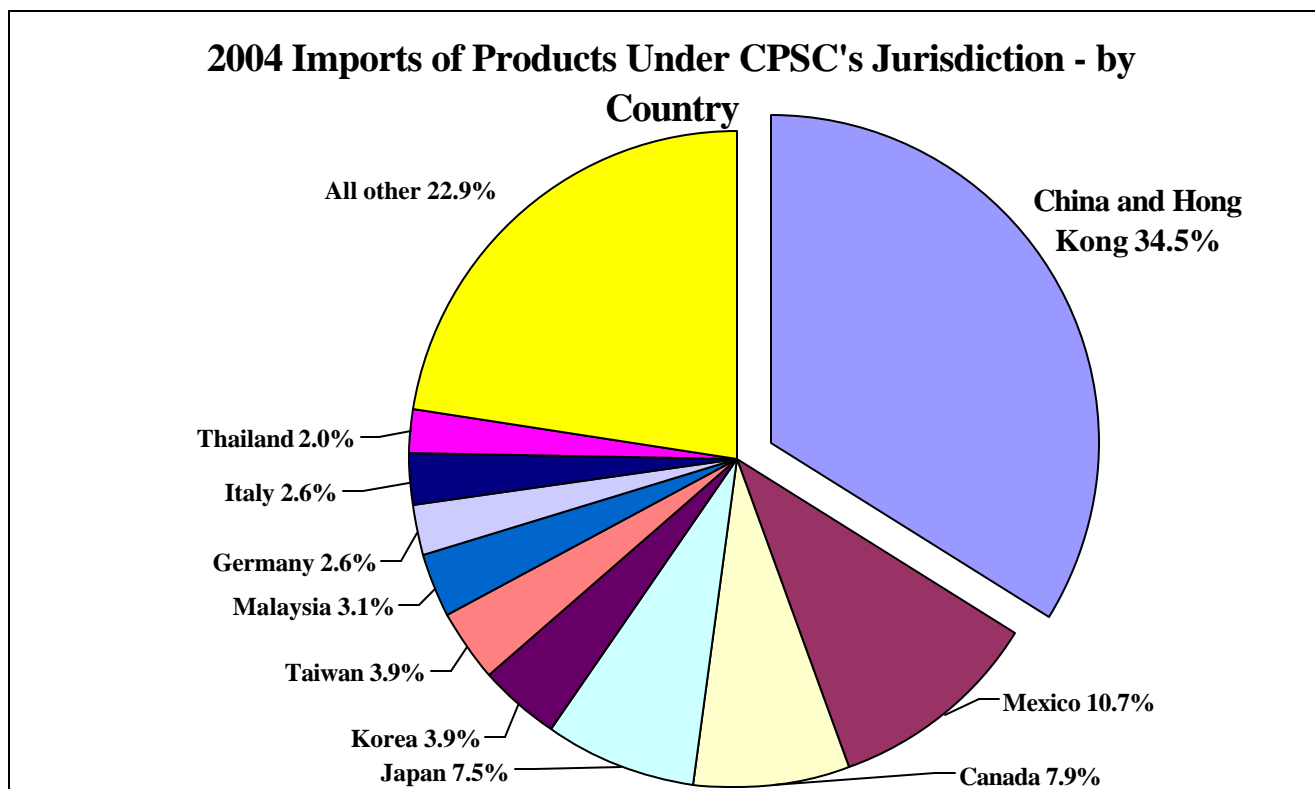
Table 2. Imports of Products under CPSC's Jurisdiction - by Country (Million U.S. dollars)

COUNTRY	1997	1998	1999	2000	2001	2002	2003	2004
China and Hong Kong	62,614	70,364	80,691	96,095	97,660	117,826	142,099	178,980
Mexico	30,723	36,233	42,690	50,879	51,043	50,792	49,021	55,261
Canada	27,353	31,344	35,892	43,673	36,038	35,281	36,599	41,063
Japan	40,117	39,682	43,073	47,797	39,248	35,963	34,867	39,139
Korea	8,838	9,454	13,695	17,193	16,324	16,506	17,341	20,131
Taiwan	21,337	21,173	22,388	24,467	20,811	20,385	19,715	19,982
Malaysia	7,159	7,014	8,267	10,326	10,533	13,045	14,369	15,840
Germany	8,979	9,396	9,927	10,740	10,196	10,310	11,704	13,301
Italy	10,308	11,087	11,703	12,589	12,299	12,445	12,804	13,284
Thailand	6,954	7,386	8,021	9,133	8,764	9,366	9,030	10,610
India	3,945	4,434	4,766	5,593	5,287	6,135	7,063	8,311
United Kingdom	7,975	7,899	8,016	8,654	7,633	6,533	6,832	7,420
Indonesia	6,268	6,250	6,727	7,285	7,358	7,085	6,631	7,194
Brazil	2,847	2,721	2,865	3,769	4,312	4,945	5,540	5,778
Singapore	5,317	5,386	5,750	5,586	4,651	4,850	4,502	5,129
France	4,024	4,404	4,447	4,895	4,591	4,640	4,684	5,104
Vietnam	134	161	214	217	234	1,478	3,457	4,176
Philippines	4,134	4,082	4,417	4,927	4,956	5,064	4,519	3,949
Switzerland	2,606	2,905	3,412	3,465	2,912	2,879	3,032	3,574
All Other	36,266	40,863	43,680	51,080	50,995	51,704	55,705	60,517
Total	297,899	322,236	360,639	418,363	395,846	417,236	449,515	518,744

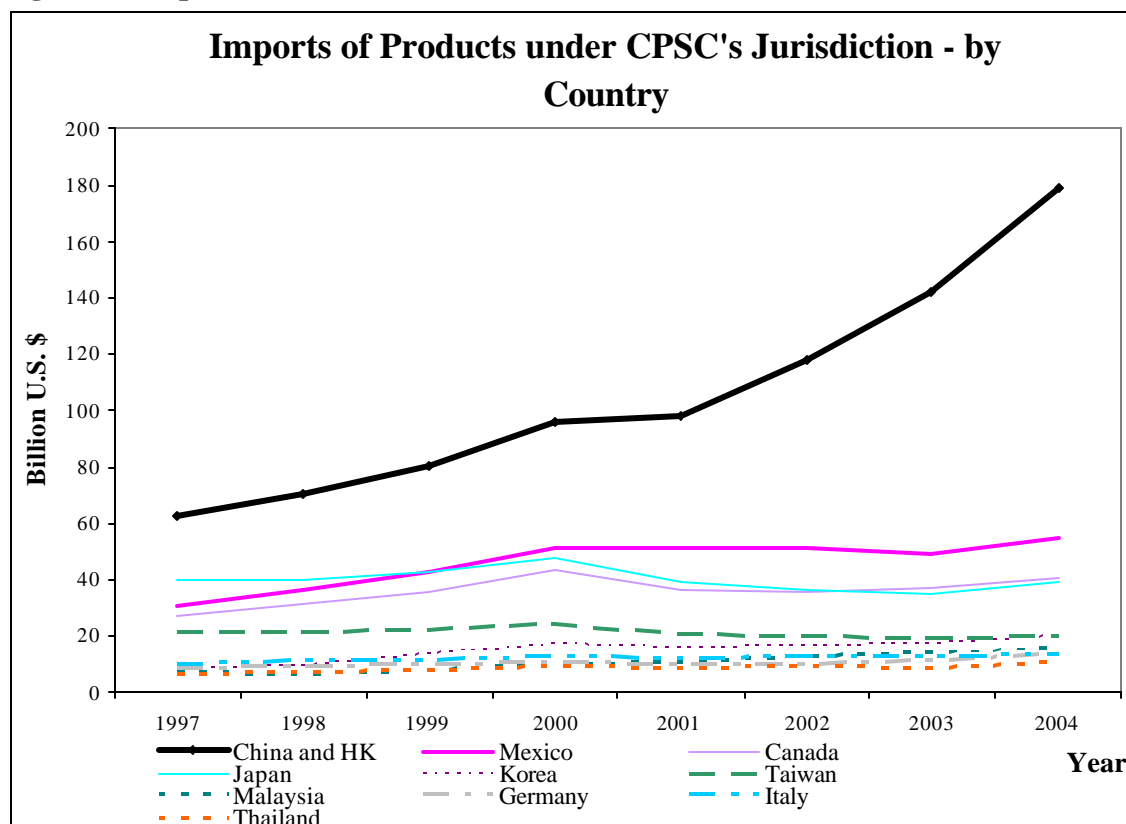
Source: U.S. International Trade Commission statistics.

Figure 2. 1997 Imports of Product under CPSC's Jurisdiction.

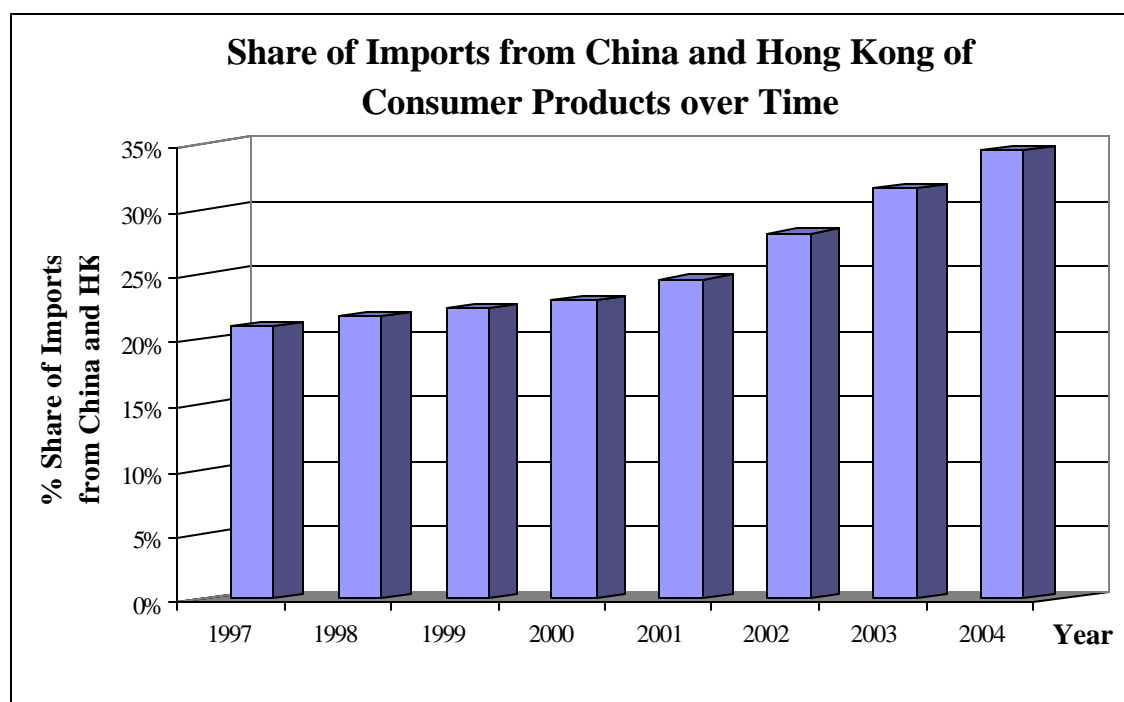
Source: U.S. International Trade Commission statistics.

Figure 3. 2004 Imports of Products under CPSC's Jurisdiction.

Source: U.S. International Trade Commission statistics.

Figure 4. Imports of Products under CPSC's Jurisdiction.

Source: U.S. International Trade Commission statistics.

Figure 5. Share of Imports from China and Hong Kong of Consumer Products.

Source: U.S. International Trade Commission statistics.

Table 3: Goods under CPSC's Jurisdiction from China and Hong Kong.

Total Value of Domestic Shipments, Exports, and Imports of Consumer Goods (million \$)	2002	2004
U.S. Domestic Shipments	979,327	1,039,941 (e)
U.S. Exports	166,353	178,779
U.S. Imports from all countries	417,236	518,744
U.S. Imports from China	110,381	171,230
U.S. Imports from Hong Kong	7,445	7,750
U.S. Consumption (Shipments - Exports + Imports)	1,230,209	1,379,906
Imports from China and Hong Kong relative to Consumption (%)	9.58%	12.97%

Source: Bureau of the Census and U.S. International Trade Commission statistics.

(e) denotes estimated. The value of shipments for 2004 is estimated based on annual growth of manufacturing for GDP in 2002.

Appendix C

Recall and Seizure Data



**UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207**

DRAFT 5/25/05

Memorandum

Date: May 4, 2005

TO : Gregory Rodgers, Ph.D., AED, EC

THROUGH : Deborah V. Aiken, Ph.D., Senior Staff Coordinator, EC

FROM : Soumaya M. Tohamy, Ph.D.

SUBJECT : Recalls and Seizures of Imports of Consumer Goods from China and Hong Kong*

The attached figures and tables present CPSC recall and import seizure data for consumer goods under the jurisdiction of U.S. Consumer Product Safety Commission (CPSC). Recalled products are taken off the market because they are determined by staff to present a substantial risk of injury or death to the public. Seized products are not allowed in the country (when inspected at the port of entry) because they may impose a risk of injury or death. Consequently, seized products do not make it to the market. All data used in the analysis were provided by compliance staff.

Recall data for China and Hong Kong are presented relative to those from other countries and domestically produced goods. The data highlight China and Hong Kong's increasing share in recalled products. Specifically:

- Relative to recalls of all imported consumer goods, the share of recalls from China and Hong Kong increased from 41 percent in 1999 to 63 percent in 2004. (See Figure 1.)
- Relative to all recalls of consumer goods (i.e. recalls of domestically produced and imported goods), the share of recalls from China and Hong Kong increased from 27 percent in 1999 to 44 percent in 2004. (See Figure 2.)
- Average annual recalls of fireworks, cigarette lighters, multi-purpose lighters, candles, and fans produced in China and Hong Kong each represent more than 50 percent of all recalls for these products, including those domestically produced. Average annual recalls for toys produced in China and Hong Kong represent more than 40 percent of all recalls for these products, including those domestically produced. (See Figure 3.)
- Average annual number of recalled units of fireworks, cigarette lighters, multi-purpose lighters, and fans produced in China and Hong Kong each represent more

*This document has been prepared by CPSC staff, has not been reviewed or approved by, and may not reflect the views of, the Commission.

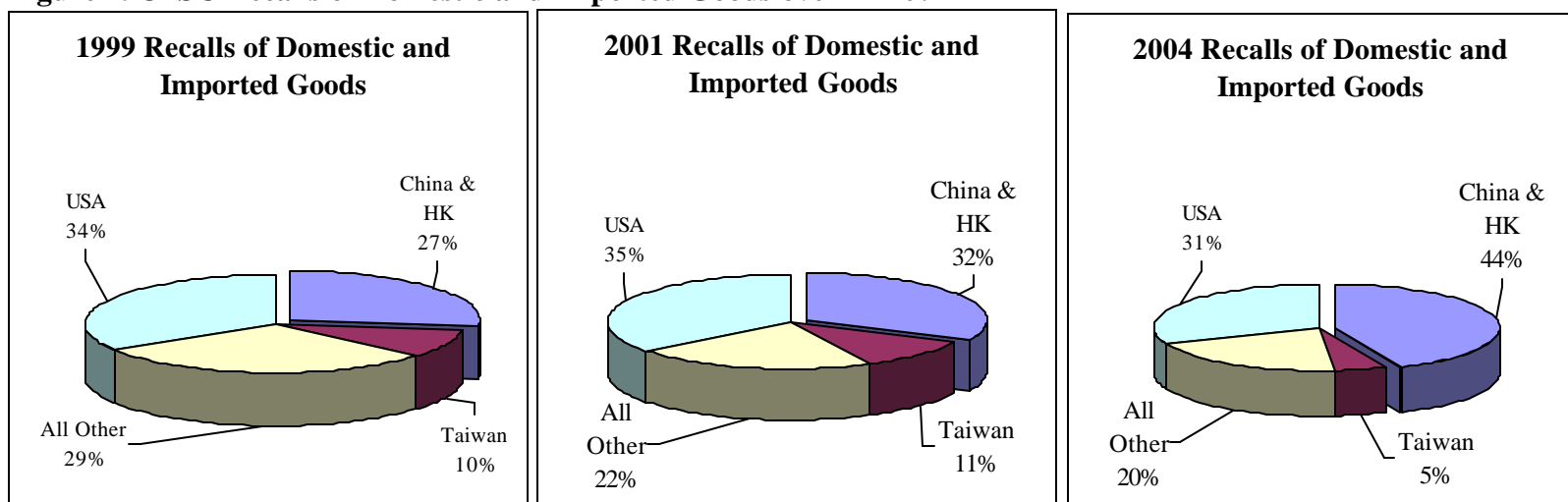
than 90 percent of all recalled units of these products, including those domestically produced. (See Figure 4.)

Compliance data indicate that China and Hong Kong represent a large share of imports seized for selected consumer products. Specifically:

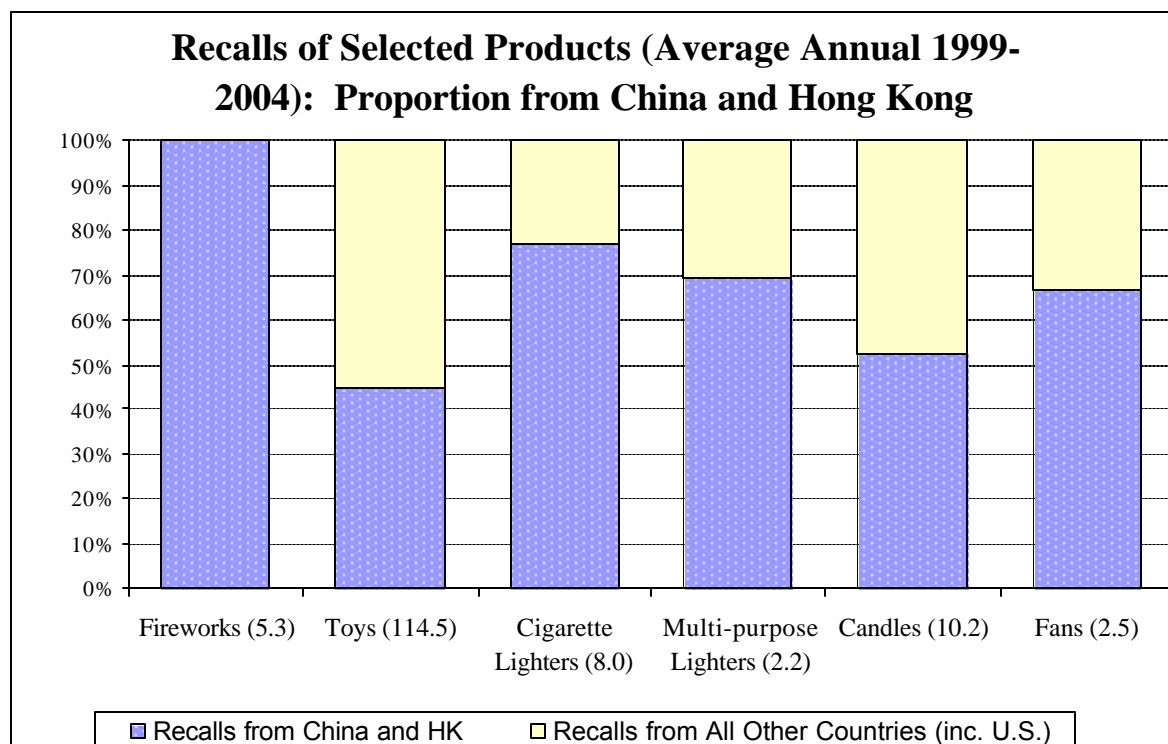
- During 1999-2004 China and Hong Kong represented on average almost all (i.e. more than 97 percent) seized imported units of cigarette lighters and fireworks, 89 percent of multi-purpose lighters, 70 percent of bicycles, and 59 percent of toys. (See Table 1.)
- During 1999-2004 China and Hong Kong represented on average almost all retail value of all seized imports of fireworks, 96 percent of cigarette lighters, 89 percent of multi-purpose lighters, 81 percent of toys, and 60 percent of bicycles. (See Table 1.)

Figure 1. CPSC Recalls of Imported Goods over Time.

Source: CPSC Compliance data.

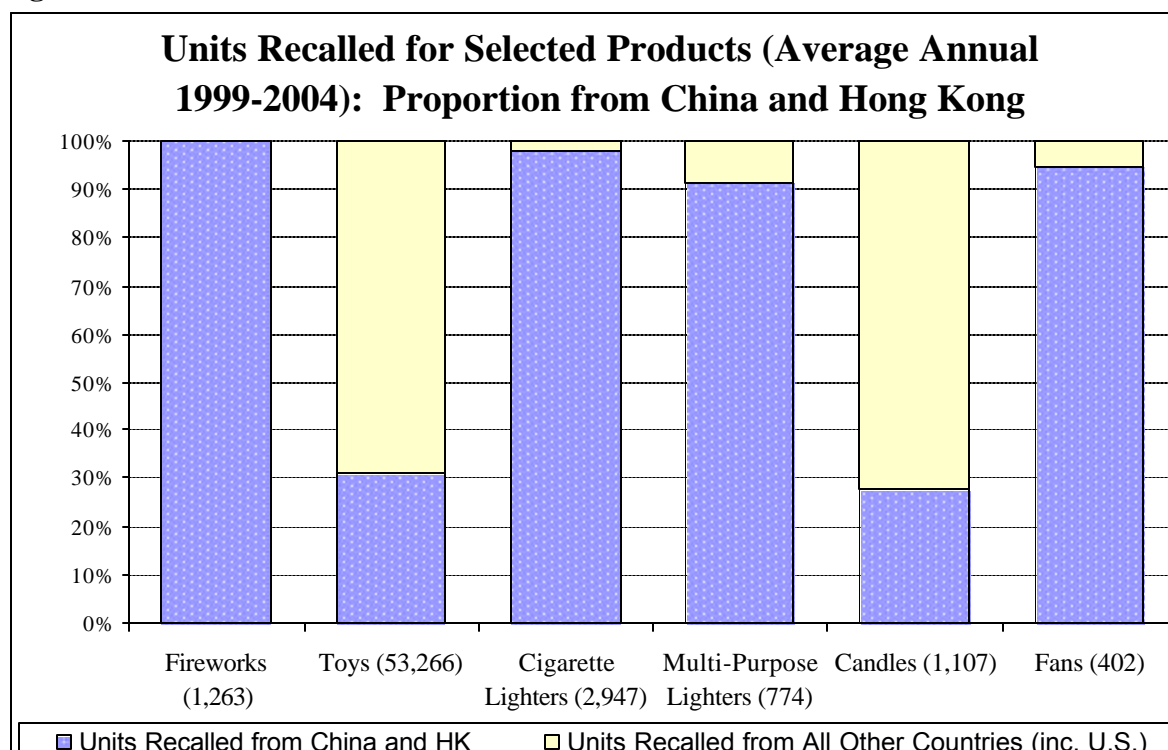
Figure 2. CPSC Recalls of Domestic and Imported Goods over Time.

Source: CPSC Compliance data.

Figure 3. Recalls of Selected Products.

Source: CPSC Compliance data.

Note: Average annual number of recalls in parentheses.

Figure 4. Units Recalled for Selected Products.

Source: CPSC Compliance data.

Note: Average annual number of units recalled (in thousands) in parentheses.

Table 1. Seizures of Consumer Products: Share of Imports from China and Hong Kong.

	1999	2000	2001	2002	2003	2004	Average
IMPORTS OF SEIZED PRODUCTS FROM CHINA AND HONG KONG							
Number of Seized Units (000)							
Cigarette Lighters	11,997	9,080	6,073	781	390	582	4,817
Fireworks	10,996	867	8,466	1,929	1,060	4,541	4,643
Toys	953	281	346	149	92	644	411
Bicycles	1	-	7	17	-	-	8
Multi-Purpose Lighters	-	-	410	255	67	231	241
Estimated Retail Value (\$000)							
Cigarette Lighters	10,048	6,876	8,114	624	997	3,589	5,041
Fireworks	668	465	767	316	633	574	570
Toys	579	281	624	329,803	306	723	55,386
Bicycles	84	-	209	836	-	-	376
Multi-Purpose Lighters	-	-	971	339	31	308	412
SHARE OF CHINA AND HONG KONG IN TOTAL IMPORTS OF SEIZED PRODUCTS							
Number of Seized Units (%)							
Cigarette Lighters	90.1%	97.6%	99.4%	99.7%	100.0%	100.0%	97.8%
Fireworks	100.0%	100.0%	100.0%	99.9%	100.0%	100.0%	100.0%
Toys	88.9%	27.0%	80.4%	98.3%	8.7%	48.1%	58.6%
Bicycles	50.0%	-	82.7%	76.6%	-	-	69.8%
Multi-Purpose Lighters	-	-	56.9%	99.9%	100.0%	100.0%	89.2%
Estimated Retail Value (%)							
Cigarette Lighters	92.4%	89.1%	97.9%	97.6%	100.0%	99.9%	96.2%
Fireworks	99.4%	100.0%	100.0%	96.6%	100.0%	100.0%	99.3%
Toys	76.9%	48.6%	83.9%	95.1%	98.6%	84.3%	81.2%
Bicycles	50.0%	-	43.8%	84.9%	-	-	59.5%
Multi-Purpose Lighters	-	-	55.6%	99.7%	100.0%	100.0%	88.8%

Source: CPSC Compliance staff.

All values are for fiscal years.

Appendix D

Consumer Product Safety Standards Matrix

Consumer Product Safety Matrix

Product Description

Name of product recalled

Hazard

Specific danger associated with each product

Number of Cases

Amount of reported incidents

Number of Units

Amount of recalled units

Harmonized Tariff Schedule

Specific classification code assigned to each product that is recognized internationally

- The HTS comprises a hierarchical structure for describing all goods in trade for duty, quota, and statistical purposes. This structure is based upon the international Harmonized Commodity Description and Coding System (HS), administered by the World Customs Organization in Brussels.

Standard Number

American standard to which each product is tested

Standard Title

Description of standard to which each product adheres

CPSC Statute

Addresses CPSC Act that was violated

- Consumer Product Safety Act (CPSA)
- Federal Hazardous Substances Act (FHSA)
- Poison Prevention Packaging Act (PPPA)
- Refrigerator Safety Act (RSA)
- Flammable Fabrics Act (FFA)

GB Standard (CCC mark)

Relative China GB (Gou Biao) standard that has the CCC (China Compulsory Certification) mark

*This document has been prepared by CPSC staff, has not been reviewed or approved by, and may not reflect the views of, the Commission.

Consumer Product Safety Standards Matrix.

DRAFT 5/25/05

Product Description	Hazard	Number of Cases	Number of Units	HTS	Standard No.	Standard Title	CPSC Statute	GB Standard (CCC Mark)
All-Terrain Vehicles	Loss of Control, Fire	3	59,818	8711	ANSI/ SVIA – 1- 2001	4 Wheel All-Terrain Vehicle Equipment Configuration and Performance Requirements.	CPSA	
Aluminum Folding Ladders	Falls	1	1,535	7616.99	ANSI A14.2-2000	American National Standard for Ladders- Portable Metal-Safety Requirements	CPSA	
Baby Walkers	Choking, Cuts, Falls	6	446,520	9501	ASTM F977-03	Standard Consumer Safety Specification for Infant Walkers	FHSA	
Back Pack Child Carrier	Strangulation	1	11,984	9401.8	ASTM F2236-03	Standard Consumer Safety Specification for Soft Infant Carriers	FHSA	
Bicycles	Falls	14	352,347	8712	16 CFR 1512	Requirements for Bicycles	CPSA	
Bicycle Helmets		3	31,949	6504	16 CFR 1203	Safety Standard for Bicycle Helmets	FHSA	
Bunk Beds	Falls	2	4,383	9403.5	16 CFR. 1213, 1500, and 1513	Safety Standard for Entrapment Hazards in Bunk Beds, Hazardous Substances and Articles, Requirements for Bunk Beds	CPSA	
Cable Gun Locks	Unauthorized Access	3	3,141,368	----	ASTM F2369	Standard Safety Specification for Non-Integral Firearm Locking Devices	CPSA	
Candle Holders/ Glass Cont.	Fire, Burn, Cuts	13	563,450	7013.99	ASTM F2179-02	Standard Specification for Annealed Soda-Lime Silicate Glass Containers that are Produced for use as Candle Containers (under development)	CPSA	
Candles-Fire Safety	Fire, Burn	18	1,375,920	3406	ASTM F2417-04 ASTM F2058-00	Standard Specification for Fire Safety for Candles Standard Specification for Cautionary Labeling for Candles Burned in a Home	CPSA	
Carpets		1	12,848	5701 to 5705	16 CFR 1630	Standard for the Surface Flammability of Carpets and Rugs	FFA	
Chairs	Collapse, Crush, Cuts	13	12,749,520	9401	ASTM F1561 ASTM F1838 ASTM F1912	Performance Requirements for Outdoor Plastic Chairs Performance Requirements for Child's Plastic Chairs for Outdoor Use Specification for Safety of Bean Bag Chairs	CPSA FHSA	
Children's Products (Chemical)		2	112,720	9503	16 CFR 1500.18	Banned toys and other banned articles intended for use by children	FHSA	
Children's Products (Flammable)		1	6,000	9503	16 CFR 1500.13	Listing of "Strong Sensitizer" Substances	FHSA	
Children's Products (Mechanical)	Mechanical	48	18,470,110	9503			FHSA	
Children's Products (Strangulation)	Strangulation	12	7,797,301	9503			FHSA	
Cigarette Lighters		122	19,165,894	9613	16 CFR 1210	Safety Standard for Cigarette Lighters	CPSA	
Clothing		2	105,000	61,62	16 CFR 1610	Standard for the Flammability of Clothing Textiles	FFA	
Dirt Bikes		1	5,775	8711	TBD	Need more information	CPSA	
Dive Sticks	Impalement; Eye, Facial Injuries	11	5,294,981	9503	16 CFR 1500.18, 1500.86	Banned Toys and Other Banned Articles Intended for use by Children, Exemptions from Classification	FHSA	
Electric Scooters			164,119	8711., 8713.	none		CPSA	
Ethylene Glycol		1	77,616	3820, 3900	16 CFR 1700.14	Substances Requiring Special Packaging	PPPA	
Fireworks		32	16,462,567	3604	16 CFR 1507	Fireworks Devices	CPSA	
Full-Size Cribs	Entrapment, Strangulation	2	3,782	9403.5	ASTM F1169-03	Standard Specification for Full Size Baby Crib	FHSA	
Gas grills	Fire, Burn, Cuts	14	568,011	8419	ANSI Z21.58-1995 CGA 1.6-M95 (R2002)	Outdoor Cooking Gas Appliances	CPSA	
Low millions								
Mid millions								
High millions								

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Consumer Product Safety Standards Matrix.

DRAFT 5/25/05

Product Description	Hazard	Number of Cases	Number of Units	HTS	Standard No.	Standard Title	CPSC Statute	GB Standard (CCC Mark)
Gas Scooters		1	700	8711	none		CPSA	
Infant Cushions		1	2,033	9503	16 CFR 1500.18	Banned Toys and Other Banned Articles Intended for Use by Children	FHSA	
Infant Swing	Falls	3	66,343	9503	ASTM F2088-03	Standard Consumer Safety Specification for Infant Swings	FHSA	
Kick Scooters			2,013	8712	ASTM F2264-03	Standard Consumer Safety Specification for Non-Powered Scooters	CPSA	
Lead in Children's Product		1	3,038,640	9503	16 CFR 1500	Hazardous Substances and Articles	FHSA	
Lead in Paint (Not Child)		2	12,000	3208 to 3210	16 CFR 1303	Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint	CPSA	
Lead in Paint (Toys)		9	727,877	9503	16 CFR 1303	Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint	CPSA	
LPG Cylinder Valves	Burns	1	31,699	9026	UL 1769 UL 2061	Standard for Cylinder Valves Standard for Adapters and Cylinder Connection Devices for Portable LP-Gas Cylinder Assemblies	CPSA	
Methyl Salicylate		4	202,252	3301	16 CFR 1700.14	Substances Requiring Special Packaging	PPPA	
Multi-Purpose Lighters		4	4,233,340	9613, 8020	16 CFR 1212	Safety Standard for Multi-Purpose Lighters	CPSA	
Non-motorized Scooters	Loss of Control, Falls, Amputation	5	474,661	8712	ASTM F2264-03	Standard Consumer Safety Specification for Non-Powered Scooters	CPSA	
Oil Lamp			474,661	7013	None	European Standard: EN/CEN 14095 Decorative Oil Lamps – Safety Requirements and Test Methods	CPSA	
Changing Table*	Asphyxiation*	1*	538,000	9403.5	ASTM F2388-04e1	Standard Consumer Safety Specification for Baby Changing Tables for Domestic Use	FHSA	
Pacifiers		4	485,440	3926.9	16 CFR 1511	Requirements for Pacifiers	FHSA	
Playpen*	Asphyxiation*	1*		9503	ASTM F 406-04	Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards	FHSA	
					16 CFR 1509	Requirements for Non-Full-Size Baby Cribs		
Propane Heaters	Carbon Monoxide	2	173,002	8416	ANSI Z21.86-2004/ CSA 2.32-2004	Vented Gas-Fired Space Heating Appliances	CPSA	
					ANSI Z21.11.2-2002	Gas-Fired Unvented Room Heaters, Volume II		
					ANSI Z21.91-2001	Ventless Firebox Enclosures for Gas-Fired Unvented Decorative Room Heaters		
					ANSI Z21.76-1994 (R2000)	Gas-Fired Unvented Catalytic Room Heaters for Use with Liquefied Petroleum (LP) Gases		
					ANSI Z83.19-2001/ CSA 2.35-2001	Gas-Fired High-Intensity Infrared Heaters		
					ANSI Z83.20-2001/ CSA 2.34 2001	Gas-Fired Tubular and Low Intensity Infrared Heaters		
					ANSI Z21.63 2000/ CSA 11.3-2000	Portable Type Gas Camp Heaters		
Rattles		7	603,430	9503	16 CFR 1510	Requirements for Rattles	FHSA	
Sleepwear		12	321,299	6107, 6108, 6208, 6209	16 CFR 1615, 1616	Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X and Sizes 7 through 14	FFA	
Stationary Activity Centers	Choking, Falls, Pinch	3	124,736	9503	ASTM F2012-00	Standard Consumer Safety Performance Specification for Stationary Activity Centers	FHSA	
Strollers	Collapse	5	355,196	8715	ASTM F833-01	Standard Consumer Safety Performance Specification for Strollers and Carriages	FHSA	
Toy Chests	Crush, Entrapment	3	3,507	9403.5	ASTM F963	Standard Consumer Safety Specification on Toy Safety	FHSA	
Low millions								
Mid millions								

*This document has been prepared by CPSC staff, has not been reviewed or approved by, and may not reflect the views of, the Commission.

Consumer Product Safety Standards Matrix.

DRAFT 5/25/05

High millions								
Product Description	Hazard	Number of Cases	Number of Units	HTS	Standard No.	Standard Title	CPSC Statute	GB Standard (CCC Mark)
Toy Premiums			39,485,194	9503	ASTM F 963	Standard Consumer Safety Specification on Toy Safety	FHSA	
Toys - Small Balls		2	89,700	9503	16 CFR 1500.18	Banned Toys and Other Banned Articles Intended for Use by Children	FHSA	
Toys - Sharp Edges		1	33,600	9503	16 CFR 1500.49	Technical Requirements for Determining a Sharp Metal or Glass Edge in Toys and Other Articles	FHSA	
						Intended for Use by Children Under 8 Years of Age		
Toys - Sharp Points		2	40,497	9503	16 CFR 1500.48	Technical Requirements for Determining a Sharp Point in Toys and Other Articles	FHSA	
						Intended for Use by Children Under 8 Years of Age		
Toys - Small Parts		96	38,583,011	9503	16 CFR 1501	Method for Identifying Toys and Other Articles	FHSA	
Tree Stands	Falls	3	503,781	----	ASTM F 2120 – 01	Standard Practice for Testing Treestand Load Capacity	CPSA	
					ASTM F 2121 – 01	Standard Practice for Treestand Labels		
					ASTM F 2122 – 01	Standard Practice for Treestand Safety Devices		
					ASTM F 2123 – 01	Standard Practice for Treestand Instructions		
					ASTM F 2124 – 01	Standard Practice for Testing Ladder Treestand, Tripod Treestand and climbing stick Load Capacity		
					ASTM F 2125 – 01	Standard Test Method for Treestand Static Stability		
					ASTM F 2126 – 01	Standard Test Method for Treestand Static Load Capacity		
					ASTM F 2127 – 01	Standard Test Method for Treestand Adherence		
					ASTM F 2128 – 01	Standard Test Method for Treestand Repetitive Loading Capability		
					ASTM F 2275 – 03	Standard Practice for Treestand Manufacturer Quality Assurance Program		
					ASTM F 2337 – 03	Standard Test Method for Treestand Fall Arrest System		
Vinyl Plastic Film		1	6,000		16 CFR 1611	Standard for the Flammability of Vinyl Plastic Film	FHSA	
Electrical Products								
Product Description	Hazard	Number of Cases	Number of Units	HTS	Standard No.	Standard Title	CPSC Statute	GB Standard (CCC Mark)
A/C Adapters	Electrocution, Electric Shock, Fire	8	788,183	8517.9	UL 1310	Class 2 Power Units	CPSA	
Appliance Timers			40,00	9106.9	UL 8730-2-7	Electrical Controls for Household and Similar Use, Part 2: Particular Requirements for Timers and Switches	CPSA	
Battery Chargers	Fire	4	2,191,023	8517.9	UL 1310	Class 2 Power Units	CPSA	
Cell Phone Batteries		2	1,111,758	8506	UL 1642	Lithium Batteries	CPSA	
Christmas Lights	Electrocution, Electric Shock, Fire, Burn	21	1,404,426	9405.3	UL 2054	Household and Commercial Batteries		
					UL 588	Seasonal and Holiday Decorative Products	CPSA	
Circular Saws		2	182,729	8465.91	UL 745-2	Portable Electric Tools	CPSA	
Coffee Makers	Burn	2	286,160	8516.71	UL 1082	Household Electric Coffeemakers and Brewing Type Appliances	CPSA	
Cordless Drills	Fire, Burn	2	1,224,760	8467.21	UL 745-3	Portable Battery-Operated Tools	CPSA	
Cordless Vacuum	Fire	1	1,544,400	8509.102	UL 1017	Vacuum Cleaners, Blower Cleaners and Household Floor Finishing Machines	CPSA	
Curling Irons	Electric Shock	1	26,999	8516.322	UL 859	Household Electric Personal Grooming Appliances	CPSA	
Deep Fat Fryers	Burn	2	88,299	8516.79	UL 1083	Household Electric Skillets and Frying-Type Appliances	CPSA	
Electric Blankets	Fire, Burn	2	144,664	6301.1	UL 964	Electrically-Heated Bedding	CPSA	
Electric Fans	Electrocution, Fire, Burn, Finger Entrapment	10	2,318,351	8414.51	UL 507	Electric Fans	CPSA	
Low millions								
Mid millions								

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Consumer Product Safety Standards Matrix.

DRAFT 5/25/05

High millions								
Product Description	Hazard	Number of Cases	Number of Units	HTS	Standard No.	Standard Title	CPSC Statute	GB Standard (CCC Mark)
Electric Juicers	Flying broken parts	4	2,670,331	8509.403	UL 982	Motor-Operated Household Food Preparing Machines	CPSA	
Elec Landscape Paintings	Electric Shock, Fire	5	78,340	9701	UL 962	Household and Commercial Furnishings	CPSA	
Electric Lawn Mowers		1	3,141	8433.11	UL 1447	Electric Lawn Mowers	CPSA	
Electric Power Strips	Electrocution, Fire	4	220,747	8544	UL 1363	Relocatable Power Taps	CPSA	
Electric Pressure Washers	Electrocution, Electric Shock, Fire, Burn	3	88,132	---	UL 1776	High-Pressure Cleaning Machines		
Electric Toaster	Fire	4	2,493,171	8516.72	UL 1026	Electric Household Cooking and Food Serving Appliances	CPSA	
Extension Cords	Electric Shock, Fire	12	1,938,284	8544	UL 817	Cord Sets and Power-Supply Cords	CPSA	
Hair Dryers	Electrocution, Fire	8	120,843	8516.31	UL 859	Household Electric Personal Grooming Appliances	CPSA	
Lamps	Electrocution, Fire, Burn	11	832,179	9405.2	UL 153	Portable Electric Luminaries	CPSA	
Light Bulbs	Fire	3	838,800	8539.21, 22.29	None	Standard for ballast on compact fluorescent bulbs: UL 1993 – Self-Ballasted Lamps and Lamp Adaptors	CPSA	
Light Fixtures	Burn	4	142,811	9405.1	UL 1598	Luminaries	CPSA	
Microwave Ovens	Fire	1	1,824,934	8516.5	UL 923	Microwave Cooking Appliances	CPSA	
Night Lights	Electrocution, Electric Shock, Fire, Burn	4	992,312	9405.2	UL 1786	Nightlights	CPSA	
Paper Shredder			15,000	8543	UL 60950	Information Technology Equipment	CPSA	
Portable Heaters	Electric Shock	9	794,412	8516.29	UL 1278	Movable and Wall- or Ceiling-Hung Electric Room Heaters	CPSA	
Slow Cookers	Fire	4	6,355,027	8516.79	UL 1026	Electric Household Cooking and Food Serving Appliances	CPSA	
Surge Suppressors		1	49,000	8535.4	UL 1449	Transient Voltage Surge Suppressors	CPSA	
Treadmills	Fall		1,258	9506.91	UL 1647	Motor-Operated Massage and Exercise Machines	CPSA	
Trouble Lights	Electrocution, Electric Shock, Fire	3	382,351	8512.20, 8513.1	UL 298	Portable Electric Hand Lamps	CPSA	
			Total:					
			208,750,955					
Low millions								
Mid millions								
High millions								

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Appendix E

Standards Presentation

Chinese Imports and the Implementation of CPSC Regulations



U.S. Consumer Product Safety Commission

Joseph P. Mohorovic
Director,
Office of International Programs
and Intergovernmental Affairs



IMPORTANT NOTE: This presentation has been prepared by CPSC staff, has not been reviewed or approved by, and may not reflect the views of, the Commission

U.S. CPSC

- **An Independent Federal Agency**
- **Established May 1973**
- **Responsible for Consumer Product Safety Functions of the U.S. Federal Government**
- **Three Commissioners, Appointed by the President and Confirmed by the Senate**

Purpose

“To protect the public against unreasonable risks of injury associated with consumer products.”¹



¹ Section 2(b)(1) of the Consumer Product Safety Act, 15 U.S.C. § 2051 (b)(1)

Consumer Product

“... any article or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise...”²



² Section 3(a)(1) of the Consumer Product Safety Act, 15 U.S.C. § 2052 (a)(1)

Consumer Products EXCLUDED from CPSC Jurisdiction

- **“... any article which is not customarily produced or distributed for sale to, or use or consumption by, or enjoyment of, a consumer...”³**
- **Alcoholic beverages, tobacco and firearms (BATFE)**
- **Motor vehicles and equipment (NHTSA)**
- **Pesticides (EPA)**
- **Aircraft (FAA)**
- **Boats (Coast Guard)**
- **Food and Drugs (FDA and USDA)**
- **Fixed-site amusement park rides (State jurisdiction)**



³ Section 3(a)(1)(A) of the Consumer Product Safety Act, 15 U.S.C. § 2052 (a)(1)(A)

How is the Mission Carried Out?

- **Promulgating regulations providing for safety standards for consumer products.**
- **Working to develop voluntary safety standards**
- **Recalls of defective products which could create a substantial product hazard or create an unreasonable risk of serious injury or death.**
- **Civil and criminal remedies including monetary penalties.**

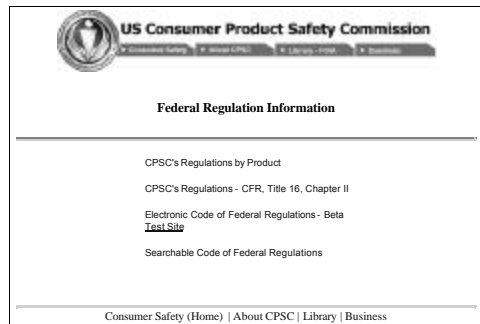
Consumer Product Safety Act (CPSA) Imported Products

- **Sec. 17 [15 U.S.C. §2066]**
 - (a) Any consumer product offered for importation into the customs territory of the United States shall be refused admission into such customs territory if such product—
 - (1) fails to comply with an applicable consumer product safety rule
 - (4) has a product defect which constitutes a substantial product hazard

CPSC – Imported Products

- **Sec. 17 (a)(1)**
 - (a) Any consumer product offered for importation into the customs territory of the United States shall be refused admission into such customs territory if such product—
 - (1) fails to comply with an applicable consumer product safety rule.
- **Mandatory rules are performance standards**
- <http://www.cpsc.gov/businfo/regs.html>

CPSC Mandatory Rules on Web Site



CPSC – Imported Products

- **Sec. 17 (a)(4)**
 - (a) Any consumer product offered for importation into the customs territory of the United States shall be refused admission into such customs territory if such product—
 - (4) has a product defect which constitutes a substantial product hazard.
- ❖ **In some cases, failure to comply with a private-sector standard makes a product defective and creates a substantial product hazard.**

CPSC – Substantial Product Hazard

- **Sec. 15 [15 U.S.C. § 2064]**
 - (a) For purposes of this section, the term “substantial product hazard” means a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a **substantial risk of injury** to the public.

Substantial Risk of Injury

- On a case-by-case basis the Commission and the staff will determine whether a defect or noncompliance exists and whether it results in a substantial risk of injury to the public.⁴
- The staff and the Commission use the following criteria in determining whether a substantial product hazard exists:
 1. Hazard created by defect (pattern of defect, number of the defective products distributed in commerce, and severity of the risk)
 2. Hazard presented by noncompliance (failure to comply with an applicable consumer product safety rule)⁵

⁴ 16 CFR §1115.12(g)

⁵ 16 CFR §1115.12(g)(1)

Compliance

- **CPSC enforces technical regulations it promulgates.**
- **CPSC also monitors compliance with private sector (voluntary) safety standards and uses them to identify defective products.**

Entry Requirements

- **Therefore, to avoid entry problems with the U.S. Government (Customs and CPSC), manufacturers SHOULD comply with BOTH:**

- ✓ CPSC Regulations (mandatory standards)
- ✓ Private sector standards (voluntary standards)



CPSA – Noncompliant Imports

- Sec. 17 (e),(f)
 - (e) Products refused admission into the customs territory of the United States under this section must be exported...If the owner or consignee does not export the product within a reasonable time, the Department of the Treasury may destroy the product.
 - (f) All expenses in connection with the destruction provided for in this section and all expenses in connection with storage, cartage, or labor with respect to any consumer product refused admission under this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

Federal Hazardous Substances Act (FHSA)

- The FHSA, 15 U.S.C. § § 1261-1278, requires cautionary labeling on certain hazardous household products (“hazardous substances”) to alert consumers to the potential hazards that those products present.

FHSA—Hazardous Substances

Hazardous Substance:

“Any substance that is toxic, corrosive, an irritant, a strong sensitizer, flammable or combustible, or generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonable foreseeable handling or use, including reasonably foreseeable ingestion by children.”⁶

⁶ 15 U.S.C. § 1261

FHSA--Hazardous Substance

The Commission may also by regulation declare a substance to be a hazardous substance.⁷

⁷ 15 U.S.C. § 1262

FHSA—Banned Hazardous Substances

- Any toy or other article intended for use by children that is or contains a hazardous substance is banned under the FHSA if a child can gain access to the substance.⁸
- In addition, the Commission has the authority to ban products it finds to be so hazardous that the labeling required by the act would be inadequate to protect the public.⁹

⁸ 15 U.S.C. 1261(q)(1)(A)

⁹ 15 U.S.C. 1261(q)(1)(B)

FHSA—Prohibited Acts

Sec. 4 [15 U.S.C. § 1263]

- (a) The introduction or delivery for introduction into interstate commerce of any **misbranded hazardous substance** or **banned hazardous substance**.

FHSA Imports

- If it appears from the examination of hazardous substance samples that such hazardous substance is a misbranded or banned hazardous substance, then the hazardous substance shall be **refused admission**.¹⁰

¹⁰ 15 U.S.C. § 1273(a)

FHSA Imports

- The Secretary of the Treasury shall **cause destruction** of any such hazardous substance refused admission unless such hazardous substance is exported within 90 days of the date of notice of such refusal or within such additional time as permitted by Treasury regulations.¹¹

¹¹ 15 U.S.C. § 1273(a)

FHSA Imports

- **All expenses** (including travel, per diem, or subsistence, and salaries of officers or employers of the United States) in connection with destruction of the hazardous substances, and all expenses in connection with the storage, cartage or labor with respect to any hazardous substance refused admission shall be paid by the owner or consignee and, in default of such payment, shall constitute a **lien against any future importations** made by such owner or consignee.¹²

¹² 15 U.S.C. § 1273(c)

FHSA Entry Requirements

Therefore, to avoid entry problems with the U.S. Government (Customs and CPSC), manufacturers should comply with the mandatory regulations pertaining to:

- ❖ the labeling of hazardous substances and
- ❖ the banning of certain hazardous substances.

Poison Prevention Packaging Act (PPPA) --Purpose

- The purpose of the PPPA is to protect children from serious personal injury or serious illness resulting from handling, using or ingesting hazardous household substances.¹³

¹³ 15 U.S.C. § 1472(a)(1)

Poison Prevention Packaging Act (PPPA) --Regulations

The PPA authorizes the Commission to issue regulations requiring special packaging ("child resistant packaging") for household substances when

- Special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using or ingesting household substances, and
- Special packaging is technically feasible, practicable, and appropriate for those substances.¹⁴

¹⁴ 15 U.S.C. § 1472(a)

PPPA Regulations

- The rules that tell you what a child-resistant package is and what products require such packaging are at 16 CFR Part 1700.

PPPA—Imports

- An improperly packaged household product which violates a PPPA regulation is a misbranded hazardous substance under the FHSA.¹⁵
- The consequences of importing a "misbranded hazardous substance" under the FHSA apply.

¹⁵ Section 6 of the PPPA

PPPA—Foods, Drugs, Devices, Cosmetics

- Improperly packaged foods, drugs, or cosmetics are "misbranded" substances subject to the provisions of the Food, Drug & Cosmetic Act.¹⁶
- The FD&C Act prohibits the introduction into interstate commerce of any food, drug, device, or cosmetic that is misbranded.¹⁷

¹⁶ 21 U.S.C. § §343, 352, and 362.

¹⁷ 21 U.S.C. §331(a)

Misbranded Imports

- The FD&CA provides that misbranded articles are to be refused admission into the United States, and such articles are to be destroyed unless exported within ninety days of the date of the refusal of the articles.¹⁸
- All expenses in connection with the destruction of the misbranded articles, and all expenses in connection with the storage, cartage, or labor with respect to the articles refused admission are to be paid by the owner or consignee and, in default of such payment, will constitute a lien against any future importations.¹⁹

¹⁸ 21 U.S.C. §381(a)

¹⁹ 21 U.S.C. §381(c)

PPPA—Entry Requirements

- Improperly packaged household items may be “misbranded articles” under the FHSA or FD & C Act.
- Compliance with the PPPA regulations is key to avoiding entry problems with Customs and the CPSC.

Flammable Fabrics Act (FFA) Overview

- The FFA, 15 U.S.C. § 1191 et seq., was passed in 1953 in response to public concern over a number of serious incidents involving brushed rayon high pile sweaters and children’s cowboy chaps which ignited easily and flash burned.

FFA

The FFA applies to products such as:

- Clothing textiles (16 CFR Part 1610);
- Carpets and rugs (16 CFR Part 1630, 1631); and
- Mattresses and mattress pads (16 CFR Part 1632).

FFA: Prohibited Transactions

- The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States . . . of any product, fabric, or related material which fails to conform to an applicable standard or regulation issued [under this Act] shall be unlawful.²⁰

²⁰ 15 U.S.C. § 1192

FFA--Imports

Shipments from Foreign Countries

In the event an imported product, fabric, or related material is delivered from customs custody under bond . . . and fails to conform with an applicable flammability standard in effect on the date of entry of such merchandise, the Secretary of the Treasury shall **demand redelivery** and in the absence thereof shall **assert a claim for liquidated damages**.²¹

²¹ 15 U.S.C. § 1198

Testing and Certification

- **A robust conformity assessment program for Chinese exports to the United States would be ideal.**
- **Testing and certification should ensure compliance with:**
 - ✓ U.S. Government Rules (CPSC Regulations)
 - ✓ Private sector standards (voluntary)

China's Product Certification System

- China's Compulsory Products Certification System (CPCS) came into full force on August 1, 2003.
- Since then, certification has been required, involving safety protection requirements, **before** manufactured goods can leave the factories or be imported to or sold in China.
- In accordance with relevant laws and regulations regarding product safety licensing and product quality certification, the **CPCS applies to products related to human life and health**, among others.

China's Product Certification System (cont.)

- A new CCC, or China Compulsory Certification, mark is required.
- Products in 132 categories were among the first items **requiring the CCC mark be applied before they can be marketed, imported or used for any commercial purposes** (including 18 categories of household and similar-use appliances).
- Certification must be conducted by a certification body that is designated by relevant, and competent, authorities.
- The recently established China National Regulatory Commission for Certification and Accreditation will oversee China's certification and accreditation system.

Chinese-manufactured Consumer Products Imported into the U.S.

- In China, there already exists a conformity assessment system. Perhaps China will consider adopting a vigorous conformity assessment program for consumer products exported to the United States to **ensure compliance** with **BOTH**:
 - ✓ CPSC Regulations (mandatory standards)
 - ✓ Private sector standards (voluntary)
- **It might be possible to integrate this kind of program with China's existing system.**
- **Third-party certification is another viable option. Although CPSC does not approve, certify, or endorse testing laboratories a list appears at: <http://www.cpsc.gov/businfo/testtoylibs.html>**
- **Different conformity assessment programs may be appropriate for different products.**

Joseph P. Mohorovic

Director
 Office of International Programs and
 Intergovernmental Affairs
 U.S. Consumer Product Safety Commission
 4330 East West Highway
 Bethesda, MD 20814-4408
 Office: (301) 504-7885
 Cell: (202) 210-3423
 fax: (301) 504-0768
jmohorovic@cpsc.gov

Appendix F

CPSC-AQSIQ Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U.S. CONSUMER PRODUCT SAFETY COMMISSION
AND
THE GENERAL ADMINISTRATION OF QUALITY SUPERVISION,
INSPECTION AND QUARANTINE OF THE PEOPLE'S REPUBLIC OF CHINA

The U.S. Consumer Product Safety Commission (CPSC) and The General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ), hereinafter referred to as "the Participants",

RECOGNIZING that the CPSC is an independent federal regulatory agency to protect the public against unreasonable risks of injuries and deaths associated with consumer products; and is charged with the enforcement of the U.S. Consumer Product Safety Act (CPSA), the U.S. Federal Hazardous Substances Act (FHSA), the U.S. Flammable Fabrics Act (FFA), the U.S. Poison Prevention Packaging Act (PPPA) and the U.S. Refrigerator Safety Act (RSA).

RECOGNIZING that AQSIQ is the Government agency responsible for the supervision and administration of China's import and export commodity inspection; is in charge of the supervision and administration of certification and standardization; and is responsible for the supervision and administration of China's import and export commodity inspection in accordance with the laws and regulations of China and international practice.

The Participants under this Memorandum of Understanding (MOU) have reached an understanding as follows:

In order to protect the health and safety of consumers, the Participants intend, on the basis of applicable laws and regulations of each Participant's country, to cooperate in areas that are within the scope of responsibilities of both Participants and in the scope of consumer products of mutual concern. This includes:

1. Exchange of scientific, technical, and regulatory information, to help ensure the quality, safety, and proper labeling of consumer products covered in Annex 1 "List of Scope of Consumer Products");
2. Both Participants recognize the "List of Scope of Consumer Products" set forth as the annex to this MOU. If necessary, the scope of the consumer products can be adjusted through consultations by mutual agreement;
3. Exchange of information of emerging issues of significant public health and safety within the scope of the mandate and authority of each Participant. Information regarding products and manufacturers may be provided if necessary and permitted under the laws of each country;
4. The Participants are to address safety problems of consumer products covered in this MOU which are manufactured in the country of one Participant and sold in the country of another Participant through consultations, and do their best to avoid any other problems caused by the above-mentioned safety issues.
5. Both Participants are to consider the inspection results obtained by the laboratories authorized by the other Participant.
6. Participate in training of laboratory and inspection personnel of the other Participant, as mutually agreed in advance.

In order to conduct the activities under this MOU, the Participants intend to develop a Plan of Action on Cooperation, which outlines the scope and details of their cooperation for each activity. Any and all activities under this MOU will be subject to

the needs of both Participants based on mutual agreement. Both Participants understand that any and all activities under this MOU will be subject to the availability of funds and resources and the laws governing the respective Participants. Each Participant shall designate contact persons (see Annex 2) for developing a relevant draft plan for carrying out the above mentioned activities.

In the implementation of any of the above exchanges, the Participants understand that all travel and per diem expenses incurred by one of the Participants in the course of providing technical assistance/training or other non-regulatory activities requested by the other Participant under this MOU should be borne by the requesting Participant. Health and hospital insurance coverage is the responsibility of the traveling Participant.

This MOU may be modified at any time with the approval in writing of both Participants.

This MOU is to become effective on the date of signature and continue in effect for a period of three years from such date, unless one Participant notifies the other of its intention to terminate the MOU sooner. Such notification should be given to the other Participant no later than 30 days before termination of the MOU. The MOU may continue to be extended for another three years from such date unless otherwise terminated by one of the Participants with 30 days advance notice of termination, if possible.

This MOU is signed in duplicate at Washington on April 21, 2004, in the English and Chinese languages.

For the General Administration of
Quality
Supervision, Inspection and
Quarantine
of the People's Republic of China

For the U.S. Consumer
Product Safety
Commission

Annex 1

List of Scope of Consumer Products

The scope of consumer products for cooperation is as follows:

Clothing, textiles, toys
Hazardous products such as cigarette and multipurpose lighters
Home appliances
Hazardous chemical consumer products
Bicycle helmets

Annex 2

Contact Persons

US Side:

Colin Church

Voluntary Standards & International Activities Coordinator, U.S. CPSC

Tel. 301-504-7245, E-mail: cchurch@cpsc.gov

Alan Schoem

Assistant Executive Director, Office of Compliance, U.S. CPSC

Tel. 301-504-7519, E-Mail: aschoem@cpsc.gov

Chinese Side:

Yuan Changxiang

Deputy General Director of the Department for Supervision on Inspection, AQSIQ

Tel: +86-010-82261922, E-mail: yuancx@aqsiq.gov.cn

Yu Qunli

Deputy Director of the Department for Supervision on Inspection, AQSIQ

Tel: +86-010-82261936, E-mail: yuql@aqsiq.gov.cn

Cao Yufang

An official of the Department for Supervision on Inspection, AQSIQ

Tel: +86-010-82261938, E-mail: caoyf@aqsiq.gov.cn